


BOARD REPORT
CITY OF LOS ANGELES
DEPARTMENT OF TRANSPORTATION

Date: June 20, 2019

To: Board of Taxicab Commissioners

From: Seleta J. Reynolds,  General Manager

Subject: **ADDITIONAL INFORMATION RELATED TO THE APPEAL OF L.A. CHECKER CAB COOPERATIVE, INC., CONCERNING THE DEPARTMENT'S RECOMMENDATION TO REVOKE FRANCHISE ORDINANCE 181423**

RECOMMENDATIONS

That your Board:

- a. **FIND** that on June 21, 2018, the Department of Transportation submitted to the Board of Taxicab Commissioners (Board) a recommendation to revoke L.A. Checker Cab Cooperative Inc.'s (Checker) Franchise Ordinance for multiple violations of the Ordinance.
- b. **FIND** that Checker shall pay a monetary penalty of \$335,000 for violations of Franchise Ordinance 181423.
- c. **ADVISE** Checker that the monetary penalty shall be paid in full by a date and in increments to be determined by the department, but no later than December 31, 2019.
- d. **DENY** Checker's appeal and uphold the Department's recommendation to revoke Franchise Ordinance 181423 should L.A. Checker fail to meet any requirements imposed by the Department and the Board related to this appeal..

INITIATED BY

On October 15, 2018, L.A. Checker Cab Cooperative, Inc., 14943 Califa St., Van Nuys, California 91411, appealed the Department's recommendation to revoke Franchise Ordinance 181423 by filing a written "Request for Hearing Before the Board of Taxicab Commissioners" pursuant to Board Order No. 471, Rule 906.

DISCUSSION

On June 21, 2018, the Department submitted a report to the Board of Taxicab Commissioners recommending the assessment of a monetary penalty. The Department also recommends the revocation of Checker's Franchise Ordinance 181423 (Ordinance) predicated on multiple violations of the Ordinance.

Investigator Dale Horton (Horton) submitted a report, B18-030.dwh on June 21, 2018, stating that permitted taxicabs operated as L.A. Checker Cab under Franchise Ordinance 181423 were running taximeters equipped with "pulse devices." Pulse devices allow the drivers to manipulate the mileage

traveled by accelerating the distance, which results in overcharges to the public. Operating a taxicab with a meter equipped with such devices is a violation of multiple sections of their Franchise Ordinance as well as a violation of Section 12510(a)(5) of the Business and Professions Code.

The June 21, 2018 report charges that the company should have been fully aware of the propensity of meter tampering by its drivers but failed to manage or take charge of the operation of these taxicabs as required by their Ordinance.

The Board instructed the Department to conduct an Administrative Hearing with Checker regarding the alleged violations. The Hearing Officer, after conducting the hearing, formed the opinion that there was insufficient evidence to alter the recommendation of the Department submitted to the Board on June 21, 2018. Checker received the results via a letter dated October 5, 2018.

The Department submitted disciplinary recommendations to the Board along with several alternatives. The latest commission meeting on this matter occurred on May 16, 2019.

During the May 2019 commission meeting, The Board considered the disciplinary alternatives that did not include revocation. It was during this meeting that the Board indicated that it would be most interested in what was termed "Option # 2", which is outlined below.

PROPOSED DISCIPLINARY ACTION

SUGGESTED OPTION #2 AS PROPOSED TO THE COMMISSION ON MAY 16, 2019

1. Find that Checker failed to effect the necessary remedies associated with 14 tampering incidents, even when given ample opportunity to do so. Checker's failure necessitates the assessment of a monetary penalty of \$335,000 absent any monetary penalty assessed to the principals involved in the fraud. Checker must render full payment within 30 calendar days of the Board's decision.
2. Checker shall be placed on probation for a period of not less than two years where any violation of the Board's rules and regulations, City Ordinances, requirements of their Franchise, if any, or any State, County or City law, regulation, codes or laws shall result in the immediate permanent revocation of Checker's authority to operate any form of passenger service within the City of Los Angeles.
3. Checker, whether under the Checker Franchise, company name, or any other means shall, no later than July 1, 2019, enable all licensed Checker vehicles to communicate with the Department in accordance with the Agency APIs defined in the LADOT Mobility Data Specification ("MDS").¹ Compliance with such APIs requires Checker-operated vehicles to notify the Department with temporal and geo-located information before, during, and after every metered trip ("MDS Data").² The Department will compare MDS Data to the licensed meter data reported by Checker to the Department to determine whether Checker is operating in accordance with the requirements set forth in the permit granted to Checker by the Department.

¹ <https://github.com/CityOfLosAngeles/mobility-data-specification>

² In consideration of this demand, Department will offer technical support to Checker to assist in their compliance with this requirement. The Department technical support will be equivalent to the support Department provided to Mobility Service Providers for the Dockless Mobility one-year permit.

At its sole discretion, Department authorized personnel may conduct random audits of Checker without warning.

4. Checker Cab shall submit to the Department a complete record of all complaints received; the name of the individual or individuals assigned to the complaint; the resolution, if any, including any penalty assessed; and the date of resolution. The company shall also provide, upon demand by the Department, a copy of all documentation, including any investigative reports.
5. Checker management, investor/shareholders, Grantees, drivers and members shall be required to undergo Customer Service Training from an accredited course approved by the Department and submit certification of each individual's attendance. Said training shall repeat on an annual basis.
6. Checker shall remove the Investor/Shareholder classification from the operation of Checker Cab and require Checker Cab and its management to be solely responsible for the operation of their taxicabs.
7. Checker shall submit to the Department a detailed and concise management business plan, including disciplinary actions for all violations of Los Angeles City rules and regulations. The approved program shall include education of the drivers regarding the rules and regulations of the Department and prevention of fraud to be approved by the Department.
8. Checker shall ensure that all taxicabs operated within the City of Los Angeles shall be registered to Checker.
9. Checker shall at no time, enter into, engage in, encourage, or condone any form of penalizing drivers for monetary penalties assessed to the company by the Department.

ADDITIONAL CONSIDERATIONS

During the commission meeting, the Board asked the Department to take into account several factors related to the proposed disciplinary action and to include those items in this report.

Payment Schedule

The Commission suggested that the Department create a payment schedule for any fines that it hands down through the Commission. The Department agrees with this suggestion but notes that because L.A. Checker's franchise expires on December 31, 2019, that all penalty amounts assessed to L.A. Checker must be paid in full by December 31, 2019. Furthermore, based upon the payment schedule created, any failure to abide by the terms of the payment agreement should lead to an immediate assessment of the full \$335,000, a dissolution of the taxi company, and the full penalty to be become due immediately.

Fine Reduction Based Upon Technology Investment

One of the rehabilitative options given to L.A. Checker is to enable all licensed L.A. Checker vehicles to communicate with the Department in accordance with the Agency APIs defined in the LADOT Mobility Data Specification (MDS). The Board and the Department recognize that this may require a financial investment on behalf of the company.

To the extent that this process impacts L.A. Checker financially, the Department agrees that it is acceptable to reduce any penalty by the amount spent to get L.A. Checker's vehicles on the MDS platform. LADOT will require evidence of this expense in the form of invoices or other methods the Department deems acceptable.

Inspections

Another consideration proposed by the Board is an increase in the frequency of inspections for L.A. Checker Vehicles. The Department recommends a minimum of one inspection per quarter for the entire fleet of vehicles. Based upon a preliminary estimate of fees for service, which looks at the percentage of time an employee performs a task along with the salary of the employee classification performing said task, the appropriate cost recovery amount of an inspection would be \$100 per vehicle.

This amount is instructive as it relates to the penalty structure because a quarterly inspection of 264 vehicles would cost the department \$105,600 throughout the year. The Department recommends that the Commission take this into consideration when determining whether to reduce the \$335,000 penalty.

Penalty Amount

The Department has requested a fine of \$335,000 based on the penalties enumerated in the Franchise agreement for violations of the agreement. The Department in its June 21, 2018 report sought penalties for eight violations of the Franchise Agreement and has structured the disciplinary penalties accordingly.

The Board asked staff to consider a reduction in penalties. However without further guidance, staff posits that any penalty reduction should be performance based, and not simply an arbitrary reduction with no basis or rationale.

The Department recommends a fine reduction based upon L.A. Checker investing in infrastructure for MDS. This allows the company to be rewarded for compliance, and ties the reduction to something concrete. The Department recommends a minimum fine of \$105,600 regardless of L.A. Checker's investment. Should L.A. Checker at any point fail in its duties, the Department recommends reinstatement of the original fine due immediately and the revocation of L.A. Checker's franchise with a complete inability to operate in the City of Los Angeles.

JMM

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