



The Research Bureau

Fare Play? Regulating Worcester's Livery Vehicles and Taxis

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EXECUTIVE SUMMARY

On July 17, 2012, the Worcester City Council adopted a moratorium on the issuance of new livery vehicle licenses because of disagreements between taxi cab and livery company owners about the enforcement of city regulations regarding livery operations, and in order to give the City Council time to determine whether the City needs to impose a legal limit on the number of livery vehicles operating in Worcester. To assist the City Council in its decision-making, The Research Bureau undertook a review of the origin and history of limiting licenses in Worcester and other cities and the economic impact of these restrictions. Based on its findings, the Bureau makes the following recommendations:

- The City should not set a limit to the number of livery vehicles. Doing so would only encourage the spread of illegal, unregulated vehicle operations. Licensed livery vehicles will continue to be required to meet public safety standards.
- The City should reconsider the regulation that livery vehicles accept only fares that have been arranged at least two hours in advance. While taxi companies strongly favor this restriction, it does not demonstrably serve the public interest, and would be difficult to enforce in the absence of draconian methods that divert police attention from more important matters.
- Such regulations will be even less enforceable as a consequence of new technology which enables consumers to hail private taxi or livery vehicles on demand through a smartphone application and GPS technology. The system is already in widespread use in larger cities, despite the efforts of conventional taxi companies to block it, and can be expected to be brought to Worcester in the not distant future. In The Research Bureau's judgment, city governments have no obligation to protect existing commercial enterprises against new and potentially more efficient competitors.
- If the City nonetheless continues to set limits (such as the two-hour rule) on the operation of livery vehicles, then in order to adapt to the growth of the City's population since 1980, when taxi medallions were first issued, the City Council should adopt a policy of annually increasing the number of medallions by a modest number - say, five per year. This limit would avoid suddenly devaluing the investment that some existing medallion owners have made in purchasing medallions. If such an increase is not instituted now, however, the longer that the number of medallions remains capped at its original level, the more valuable medallions will become, and the harder it will become to ever increase their number, regardless of public need - even though the City Council was expressly given the authority to institute such increases when the medallion system was adopted.

- Any new taxi medallions to be issued should be distributed through a public auction, rather than being given away for a small fee to a lucky or favored few. (This is the method that Boston used in 1999- 2001 when it issued 225 additional medallions to help finance its new convention center.)

INTRODUCTION

"What you're doing is asking me to legalize my competition ... I don't think that's fair play" (Toni Donovan, owner, Red Cab Company, asked whether the City should issue more taxi medallions, as quoted in *Worcester Magazine*, June 20, 2012).

"There is broad consensus among economists" that limiting the number of taxis in a city through the introduction of a medallion system "allow[s] a small group of private citizens - those who are among the first round of recipients of medallions - to earn windfall profits at the expense of consumers and drivers without medallions." ("Taxi Medallion Systems," Government of the District of Columbia, Report of the Chief Financial Officer, prepared by the city's chief economist, January 4, 2010).

On July 17, 2012, the Worcester City Council adopted a moratorium on the issuance of new livery vehicle licenses. The moratorium is to remain in effect until December 31 of this year, or until the Council enacts a new policy on livery licenses. The purpose of the moratorium, according to one of its leading advocates, City Councilor Joseph O'Brien, is to give the Council time to hold public hearings in order to determine whether the City needs to

impose a legal limit on the number of livery vehicles operating in Worcester, parallel to the existing limit on the number of taxicabs. In order for the moratorium to take effect immediately, the resolution establishing it included an "emergency preamble" composed by the City Manager at the Council's request citing the emergence of "severe economic conditions" facing the operators of taxis and liveries in the City, as well as the need to promote "public convenience and necessity" through the provision of "safe and efficient transportation options" to members of the public.¹

The need for the moratorium arises more specifically, according to Councilor O'Brien, because of the failure of some livery owners to respect the legal restrictions the City has established on their operations, so as to maintain the distinction between liveries and taxis - in particular, the rule that limits liveries to providing rides that have been arranged at least two hours in advance, rather than responding to calls as they come in. Some advocates of the moratorium maintain as well that newer livery owners are failing to register with the police department as they are required to do, thus creating a public safety issue (since by failing to register, they are avoiding mandatory safety inspections of their vehicles). Finally, the

moratorium is said to be needed because the recent increase in liveries threatens the maintenance of a "reasonable equilibrium" in their number.² (Currently, Police Chief Gary Gemme reports that there are 96 registered livery vehicles in the City. He acknowledged that there is no way to determine the number of unlicensed livery vehicles.)³

Tension over the number of livery vehicles reportedly reflects the breakdown of an informal "peace agreement" between taxi and livery owners negotiated by City officials in 2010, following a period in which police had been strictly enforcing the regulations governing liveries. (Currently, Worcester has two taxi companies - Red and Yellow - and two major livery companies - Ecu Limos and New Worcester Limos.) Under that agreement, the number of hours in advance that a livery vehicle had to be ordered was reduced from twelve to two, and in return the police would continue to strictly enforce such regulations (which would require the use of "sting" operations). Taxi owners complain that the police department has not been living up to its end of the

bargain, to which the police chief responds by citing the limited resources available to him at a time of shrinkage in his department's personnel. Under these circumstances Councilor O'Brien has said that the City needs "time to figure out what the right number of liveries is, like we did with cabs."⁴ It is not clear what criteria the Council is to use in order to determine the "right" number of liveries.

In this report The Research Bureau addresses the issue of whether the City should be engaged in setting limits to the number of liveries by placing it in the broader context of the origins and history of the taxi medallion system elsewhere in the U.S., along with its original institution in Worcester in 1980. After summarizing the regulations that distinguish liveries from taxis, we will cite the findings of other researchers regarding the effects of restricting the issuance of taxi medallions. Such findings will carry implications not only with respect to restricting the number of liveries, but also regarding the desirability of continuing or modifying the City's policy regarding taxi medallions.

WORCESTER REGULATIONS REGARDING TAXIS AND LIVERIES

The City of Worcester first began setting limits to the number of taxi licenses in 1964, when a quota of 100 was set so as, ostensibly, "to bring the number of cabs in line with the amount of business available" and thereby make it worthwhile for taxi owners to comply with the City's "strict requirements for operation and upkeep." Under the original regulations developed by the City's License Board, operators who stopped using their licenses were prohibited from passing them on to family members or selling them to another operator; instead, the License Board would reassign the unused license at its own discretion. However, despite those regulations, license holders developed an informal practice of selling their unused licenses, at prices as high as \$22,000 by 1979; the License Board informally consented to this practice. (Reportedly, one City ordinance did imply the legality of such sales.)

The issue came to a head in April, 1979, when the License Board, in response to a perceived public need, established three additional "non-transferrable" taxi licenses, bringing the total of such licenses to ten - in addition to the 98 that, by then, were understood to be transferrable with Board approval. When the local taxi associations refused to admit the holders of the three new licenses as members - thus excluding

them from the associations' dispatch system- so as to prevent the additional competition, the Board responded by explicitly abolishing the practice of transferring cab licenses.⁵

In a subsequent letter to the *Worcester Telegram*, Chester Arkwell, the chairman of the Worcester Taxi Owners' Association, explained the taxi owners' objection to adding new licenses as requiring them to share with new drivers "the fruits of our labors." And he objected to the prohibition on transferring licenses (by selling them) on the grounds that this would "bring financial ruin" to the license owners' families - even though such transfers had been expressly prohibited in the original License Board regulations.⁶

The taxi owners then submitted a petition to the City Council's Legislative Affairs Committee requesting that the City establish a taxi medallion system like Boston's that would explicitly grant medallion owners the right to sell their medallions. While the Committee denied the petition, it agreed to submit it to the entire Council. One Councilor, John Anderson, spoke favorably of the petition on the ground that when their licenses change hands, taxi owners should receive a reward for having "worked hard to build a business." On motions by Councilor Anderson, the Council then voted by an 8 to 1 margin to direct the Law Department to draw up revisions to City ordinances to create a medallion system, permitting the medallions to be transferred and sold by their owners, and limiting the number of taxis to 108. In February, 1980, the License Board put the medallion system

into effect, providing for the issuance of one hundred medallions to existing license holders, who would have the right to sell them with the Board's approval, and also added eight more "non-transferable" licenses that would have to be returned to the City when the owner left the business. (The latter qualification was added to prevent recipients of the new licenses from receiving an "unjust economic reward" for them, since they hadn't earned them through previous ownership.)⁷

Although Worcester's population increased by some 20,000 from 1980 to 2010, and even though the ordinance limiting the number of medallions specified that the City Council could alter the number "in accordance with the public need," the number of medallions has never been increased, other than through the addition of two medallions for handicapped-accessible cabs.⁸ (The City Solicitor has determined that the City Council has the right to increase or decrease the number of medallions in response to perceived "public need.") While the City originally sold medallions for a nominal sum, medallion owners were subsequently selling them for as much as \$75,000 by 2010.⁹ In other words, as has happened in other cities, the original purchasers of taxi medallions reaped substantial profits from them, purely as a result of the City-created monopoly. (As of 2010, the two cab companies, Red Cab and Yellow Cab, owned about 72, or 65%, of the 110 medallions currently outstanding; the remaining medallions were owned by private contractors, who

generally affiliate with one of those companies in order to participate in their dispatch system.)¹⁰

During a meeting between cab companies and livery owners arranged by the City in 2011, Yellow Cab said that it had no medallions for sale. While Antoinette Donovan of Red Cab told city officials in 2011 that she had several unused medallions that were available for sale, and offered to sell them to livery drivers, a spokesman for the livery companies, Sam Rosario, claims that Ms. Donovan insists that anyone who buys a medallion from her must agree to work for Red Cab.¹¹ Ms. Donovan, however, denies this, saying that she requires buyers to work for her only if she has lent them money to pay for the medallion, and the obligation ends once the loan is paid off. In any event, the cost of a medallion alone significantly limits the opportunity for any individual to become an owner-driver. Since Worcester offers few opportunities for a taxi to pick up fares in response to street hails, individual taxi owners would naturally tend to affiliate with one of the two major cab companies for the sake of participating in their dispatch system. For this reason the opportunity to own a medallion presumably makes less of a difference to taxi drivers than it does in a city like New York, which offers ample opportunities for street hails. However, owning their own medallions would presumably improve the bargaining power of the drivers vis-a-vis the taxi companies. (It should also be noted that the market value of medallions has

reportedly declined significantly from their 2010 peak, on account of growing competition from livery vehicles, which have reduced the volume of business available to medallion owners. For the same reason, it has been reported that the taxi companies are not currently using all the medallions that they own, as Ms. Donovan's offer confirms.)

The issuance of taxi medallions in Worcester is governed by chapter 11 of the City's Revised Ordinances of 1996, which authorizes the Chief of Police to grant taxi licenses "upon such terms and to such persons as he may deem expedient," as long as they have resided in the City for at least six months immediately preceding their application. (In 1996, the City Council transferred the authority to issue taxi regulations from the License Board to the police chief.) The taxi owners (medallion holders) and taxi drivers are also subject to supplemental regulations issued by the police chief. The ordinance and supplemental regulations govern such matters as the age, maintenance, and operation of vehicles, the solicitation of fares, and the maintenance and use of the taxi meter.

In response to the growing popularity and hence increase in the number of livery vehicles in Worcester in recent years, particularly in Latino neighborhoods, the chief of police drew up a set of regulations specifying the limits to which livery operators must conform, partly with a view to minimizing direct competition between

them and taxis. The most important restrictions are as follows. Besides being required to prearrange rides (as noted above), and being prohibited from picking up hail fares on the street, liveries are not allowed to charge for services based on miles traveled for trips of under 25 miles. (It is not clear how literally the latter rule was to be applied: presumably there has to be a distinction between the fares for long and short distances. In practice, fares are negotiated between the livery driver and the passenger in advance of the ride.) Also, "all passengers in livery vehicle[s] with seating capacity of eight or less should be considered one fare."

Taxi fares per mile are set by the City's License Commission. Drivers are forbidden to charge either more or less than the prescribed fare (Dept. of Police, Taxi and Livery Regulations [3008], Art. IX, sec. 2). (By contrast, as just noted, livery fares are negotiated between driver and passenger for each ride.) The owners of both taxicabs and livery vehicles must pay a license fee of \$100, while the drivers of each kind of vehicle pay \$25. (As noted, however, the City does not currently have any taxi medallions for sale; anyone wanting to own one would have to buy it from a current owner.) Other regulations, such as the exclusion of individuals with various sorts of criminal record from eligibility to serve as drivers, and the prohibition of such practices as "call jumping," are developed as well as enforced by the Chief of Police.

ORIGINS OF THE TAXI MEDALLION SYSTEM

The system of limiting the number of taxis in a city by requiring owners to purchase one of a limited number of medallions originated during the Depression. Although the medallion system was previously introduced in Boston (1930) and Chicago (1934), the system about which the greatest amount of information is readily available is New York City's. During the 1920's New York set no limits to the number of taxicabs, and it licensed as many as 21,000 drivers; permits to drive were held by the actual drivers, not taxi companies.¹² After many drivers let their licenses lapse in the Depression, that number dropped to about 12,000. Under pressure from cab drivers concerned about the effects of competition on their earnings (and with the support of mass transit companies seeking to reduce the competition), in 1937 the city adopted the Haas Act, which eventually limited the number of taxi medallions (following a reduction at the outset of World War II) to 11,787. The Act's supporters justified it by citing the need to combat such "public hazards" as traffic congestion, excessive competition among taxis owing to their ostensibly excessive numbers, and the resultant long hours worked by cab drivers for an "inadequate" income. Only twice has the City increased the

number of medallions: 400 additional medallions were issued in 1996, following a debate that had been carried on since 1987, and the city auctioned off another 150 medallions in 2007.

Of course, workers in many other occupations besides cab driving might have complained during the Depression of receiving an inadequate income. But it is important to bear in mind that during the 1930's, the Roosevelt Administration itself adopted policies such as the National Industrial Recovery Act (subsequently ruled unconstitutional by a unanimous Supreme Court) and the Agricultural Adjustment Act (limiting agricultural production, even at a time of food scarcity) that were based on the questionable premise that "excessive" competition was detrimental to the people's well-being, so government should instead engage in the practice of trying to fix prices and wages, rather than letting them be determined by the market. (In other words, low prices, despite their manifest benefit to consumers, supposedly cause a harm to the economy that outweighs that benefit.) So the Haas Act, along with the adoption of legal limits to the size of taxi fleets in other cities, doubtless reflected a certain hostility to economic competition - as well as exhibiting the capacity of particular groups, in this case taxi owners, to bend such regulations to their particular benefit.

ECONOMIC EFFECTS OF THE MEDALLION SYSTEM

In the years since the Haas Act, numerous other large and medium-sized cities adopted similar restrictions on the number of taxi medallions or licenses. There is, however, a widespread consensus among economists that such restrictions are detrimental to the public interest.¹³ In the first place, like any other anticompetitive restraints, they reduce the incentives for providers to offer the best or most reliable service, and cause prices to consumers to be higher than they otherwise would be. Second, since cab driving is a relatively unskilled type of labor, which does not require particular educational qualifications, limiting the number of cabs restricts the opportunities available to poor people, including immigrants, to better their economic prospects by entering the field.¹⁴ This is particularly true when, as is usually the case, owners of taxi medallions are allowed to sell them rather than being required to return them to the local government when they are no longer being used. Owing to the restricted supply of taxi medallions in New York City, two such medallions recently sold for one million dollars each - obviously putting them beyond the reach of poor people, whose only opportunity to enter this occupation will

come from working for the holders of medallions.¹⁵ (In Boston, medallion prices have hit \$400,000.¹⁶)

One development that has somewhat mitigated the restrictive effects of the medallion system is the rise of livery vehicles. Earlier this year, in response to the perceived shortage of taxis in New York City outside lower and midtown Manhattan, the state enacted a law allowing 18,000 livery vehicles to pick up street hails (in addition to prearranged rides) outside lower Manhattan; Mayor Bloomberg had pressed for the state legislation after the New York City Council rejected the proposal. The legislation would also have authorized the issuance of 2,000 new taxi medallions through an auction that was forecast to yield the city \$1 billion in revenue. However, in August a New York State Supreme Court judge ruled the law unconstitutional because the state was ignoring the city's Home Rule rights. (The chairman of the city's Taxi and Limousine Commission called the decision "a great loss to millions of New Yorkers outside of Manhattan" as well as to livery drivers, "whose ability to feed their families by providing a popular service" had been jeopardized; the City plans to appeal the ruling.)¹⁷ Not surprisingly, medallion owners, especially the twenty-odd owners of the largest fleets, are among the biggest donors to political campaigns in New York City - as is true in other cities where the medallion system exists.

Various economic studies of other cities have determined that, as with any government-created monopoly or oligopoly, limiting the number of taxi licenses tends to increase costs to consumers while worsening the quality of service. A 1995 study by the Pioneer Institute comparing taxi fares with those in three cities that had deregulated the taxi industry, such as Indianapolis, found that Boston's fares averaged 11 per cent higher. A 1982 Kennedy School report (based on 1970 data) estimated that Boston's medallion system had kept taxi fares as much as 25% higher than market forces would have dictated. And a 1975 study by the U.S. Department of Transportation found that restrictions on the entry of new cab owners along with prohibitions on the discounting of fares cost consumers nearly \$800 million, and that the removal of these restrictions would have created 38,000 new jobs in the taxi industry nationwide.¹⁸ Several Worcester residents who were consulted during the preparation of this report said that they had experienced significant breakdowns in service from local taxi companies: that is, the companies failed to send a taxi at a specified time, even though the ride had been scheduled the night before and reconfirmed that morning.

DEFENSES OF THE MEDALLION SYSTEM/ LIMITING COMPETITION FROM LIVERY VEHICLES

In preparing this report, The Research Bureau conducted a two-hour in-person interview with Antoinette Donovan, owner of the Red Cab Company, as well as a half-hour phone interview with Bill Clark, owner of Yellow Cab. Their arguments in defense of the medallion system, and the need to limit competition from livery vehicles, were similar. Both claimed that taxis are safer than liveries and offer better service, e.g., quicker response time. In a printout that Ms. Donovan provided which she attributed to the University of Missouri Center for Transportation Studies, it is argued that "full-service" taxi companies "monitor the behavior of their drivers, implementing rules of conduct, dress, and efficiencies on pick up of clients" in a way that independent taxi operators or livery companies (it is implied) do not. The printout claims that the failure to limit the supply of taxis "leads to an overall decrease in profitability levels, deteriorating service levels, inability to implement modern technology ... and eventually customer dissatisfaction." An oversupply of taxis, the printout warns, will "forc[e] regulators to raise the taxi fares" to compensate for drivers' declining incomes. And increased competition will supposedly cause a "serious deterioration of vehicle condition," due to drivers' diminished income, while the condition of vehicles is "hard[er] to police with individual owners rather than [a] full service taxi company." (According to this last argument, it appears, private individuals shouldn't even be allowed to own taxis.)

With due respect to the cab company owners, it is hard to find any of these arguments persuasive. If livery drivers acquired a reputation for less-safe vehicles, poorer service, driver misconduct, or technological backwardness, they would presumably lose customers, just as the taxi companies would. In other words, they have the same incentives to offer good, safe service to their customers that the taxi companies do. We have not been supplied with any evidence to document the aforementioned criticisms as applied to Worcester's livery companies. Livery vehicles, like taxis, are required to undergo regular safety inspections. (The vehicle fleets of both ECUA and New Worcester Limousine, Worcester's two leading livery companies, consist entirely of Lincoln Town Cars, a luxury vehicle, according to company spokesmen. As for keeping up with technological advances, Ms. Donovan acknowledged that Red Cab is only now installing GPS systems in its vehicles.) And as for the notion that increased competition will compel regulators to raise prices so as to compensate companies or drivers for a loss of business, it is not an established principle of the American political and economic systems that government is obliged to undertake such compensation through price-fixing. (When airline fares were deregulated during the Carter administration, the result was a lowering of fares that opened air flight to millions of new customers - even though companies that were unable to keep up with the competition were bought out or went out of business.

Why shouldn't Worcester residents, particularly those with limited means who may lack automobiles and thus are most dependent on taxis or liveries, similarly be offered the opportunity to obtain the most economical service?)

Ms. Donovan has denied that the income that medallion owners receive when they sell their medallions constitutes an unearned windfall profit, since the owners had incurred "significant start-up and long-term costs" in beginning their businesses, as well as having to perform "hard work" to maintain those businesses. But in most private enterprises, it is expected that business owners will recoup their costs and be rewarded for their labor simply by earning profits *from their business operations* that cover their costs and reward their labor - without the need for a governmentally imposed monopoly to provide additional gains. The latter are indeed windfall profits that result from what economists call "rent-seeking behavior." They bear no relation to a previous owner's work or costs (other than the cost of the medallion itself, which may have been quite small, depending on when the previous owner acquired it).

Ms. Donovan has also warned that any increase in the number of taxi medallions or livery permits will lead to "chaotic and 'rogue' taxi and livery industries" that will threaten the public safety - in contrast with the "supportive umbrellas" that existing "full-service" taxi companies provide, insuring that governmental "rules and

regulations" are enforced. However, her only evidence that such regulations will be ignored if the number of taxi and livery vehicles is allowed to increase is the acknowledged difficulty that Worcester's police department faces in trying to enforce the "two-hour" rule applied to livery vehicles - when what is in question is precisely whether that rule should continue to exist. She offers no evidence that livery services are any less safe than taxi companies - let alone that an expanded number of taxis would threaten public safety.

It should also be noted that the taxi companies have not limited themselves to the conventional taxi business. Ms. Donovan offered an impressive account of how, in response to declining demand for individual taxi services, she built up her business by negotiating contracts with public and nonprofit agencies including hospitals, the Red Cross, and the Worcester Public Schools (for such programs as Head Start and special education). This is an admirable display of enterprise. But it also demonstrates that taxi companies are not without resources of their own in the face of competition from liveries. (Red Cab operates its own livery service under the name of Prescott Coach.)

LIKELY EFFECTS OF LIMITING THE NUMBER OF LIVERY VEHICLES IN WORCESTER

In considering the rationale that has been offered for limiting the number of livery vehicles, it is important to distinguish between reports of "gypsy" cabs that fail to register with the City as they are required to do and may evade City safety regulations, and livery vehicles that do obey those regulations: setting a legal limit to the number of liveries that the City allows will do nothing to address the existence of violators of City safety regulations.¹⁹ In fact, in 2010 Chief of Police Gemme expressed the concern that the unintended consequence of the rule then in force that limited livery drivers to prearranging fares twelve hours in advance was "to drive livery operators underground, creating a new illegal livery industry where operators are unlicensed and vehicles are no longer registered as livery vehicles" and hence were "not subjected to the current public safety standards of licensing, inspection, and oversight."²⁰ Partly for that reason, as noted above, the 12-hour rule was suspended, ultimately to be replaced by the current 2-hour rule. (According to the owner of one of the local livery services, there are at least 100 unregistered gypsy cabs operating in Worcester; the drivers commonly acquire fares by parking in areas like Wal-Mart, supermarkets, or hospitals where potential customers are likely to congregate.)

Similarly, limiting the number of liveries will not in itself address the complaint of taxi owners that livery drivers are providing rides with less than 2-hour advance notice, as City regulations require, or even accepting hails from the street. The restrictions on the latter practices have nothing to do with safety, but are clearly designed to reduce competition between livery and taxi owners, to the benefit of the latter.

One complaint of taxi owners is that livery drivers have an unfair competitive advantage, in that they pay lower insurance rates, and do not have to factor the cost of medallion purchases into their fares. However, the extent of the difference in insurance rates is in dispute, and we have not been able to identify a reason for it. Another complaint is that the flat rates charged by the livery companies cost less than the metered taxi rates fixed by the city.²¹ The latter complaint amounts to a demand for the extension of governmentally imposed price-fixing, an economic approach that as we have noted is neither efficient nor equitable to the public at large. It is clear that setting a legal limit to the number of livery vehicles is likely to be detrimental to the interest of consumers (passengers), just as is the case with government restrictions on competition in any other field. (Restricting the number of supermarkets that could be opened in a given area would protect existing supermarket owners against what they perceived as "unfair" competition, but this would hardly be beneficial to shoppers.) It also restricts the opportunity for new potential livery drivers - many of them from Worcester's

Latino community - to advance themselves by entering the market. For these reasons The Research Bureau believes that it would be unwise and detrimental to the public interest to restrict the number of registered livery vehicles, rather than letting their number be determined by market demand.

An additional reason for not limiting the number of livery vehicles is that offering a limited number of licenses or medallions to operate them would give unfair advantages to those fortunate enough to obtain them, assuming they were given the right to transfer or sell the medallions to other persons. As indicated above, restricting the number of taxi medallions has conferred large profits on those who originally were given medallions, or who had the foresight to purchase them when their price was relatively low. It must be emphasized that profits from owning medallions do not result from any service to the public, but are simply monopoly profits conferred by the government on some lucky individuals - just as if the City were to require supermarket owners to purchase medallions as a condition of doing business. Over time, as the value of the medallions rises, resistance to increasing their number will grow ever stronger, since medallion owners (who may have had to purchase medallions from their previous owners for a substantial price) will find the entry of new competitors ever more financially threatening. It is this fact that best explains the failure of the City Council to increase the number of taxi medallions, despite the considerable increase in Worcester's

population since medallions were first issued.

In this light, the rise of the livery cab business can be seen as an inevitable adaptation to the City's restriction of the taxi fleet to an unreasonably low number. However, limiting the number of liveries would generate the same problems as the taxi medallion system does: reducing the number of vehicles below the optimal number for meeting customer demand; thereby reducing the incentives that competition provides for operators to provide prompt and efficient service; and putting unearned profits in the hands of those fortunate enough to obtain the initial medallions. It will also make it politically difficult if not impossible to increase the number of medallions in the future in accordance with the needs of the public, just as has happened with taxi medallions.

OBSERVATIONS AND CONCLUSIONS

Based on the above findings, the Bureau makes the following recommendations:

1. The city should avoid setting any limit to the number of livery vehicles. The problem of "gypsy" livery vehicles that evade City safety regulations - to the extent that such vehicles exist - is a law-enforcement issue, not a problem that would be solved by limiting the number of livery vehicles that do conform with safety regulations. In fact, limiting the number of legal liveries will

simply encourage the spread of illegal, unregulated livery operations.

2. There needs to be reconsideration of the legal limits that have been set to the operation of livery vehicles, specifically the requirement that they accept only fares that have been arranged at least two hours in advance. Such a regulation seems not only arbitrary but difficult to enforce, at least in the absence of draconian methods that would divert police attention from more important matters. In fact, these regulations, along with limits on the number of liveries, will be even less enforceable as a consequence of new smartphone technology. A new company, Uber, which is already operating in 15 major cities including Boston, New York, Washington, and San Francisco, has combined a smartphone app with GPS technology to make it easier for consumers to hail taxis or livery vehicles on demand.²² (The system identifies the closest available town car and reliably estimates how long it would take to arrive. If a customer agrees to hire the car, he is shown the name and photo of the driver on his smartphone and can follow the car on a map as it approaches, enabling him to time his own trip to the curb.) As the Uber approach spreads to middle-sized cities like Worcester, where practically all taxi fares result from phone calls rather than street hails, the attempt to preserve the "conventional" taxi business through the enforcement of municipal ordinances against competition from livery services may amount to the defense of an outmoded business model. Contrary to

the opinion of the owner of a local taxi company (quoted above), the City has no obligation to protect existing commercial enterprises against newer and potentially more efficient competitors.

3. In order to adapt to the growth that has already occurred in the City's population since 1979, the City should adopt a policy of annually increasing the number of taxi medallions by a modest number - say, five per year. This limit would avoid suddenly devaluing the good-faith investment that some existing medallion owners have made in purchasing medallions (although others remain in the ownership of individuals or corporations that originally obtained them for a nominal sum). This policy is modeled on the proposal that Mark Cohen, Boston's chief taxi regulator, made in 2011, mandating that the number of medallions in Boston be increased by at least 2.5% every six months over the next five years.²³ Although owners of existing medallions will complain that even this gradual increase will lower the value of their investment, as the New York City example shows most graphically, the longer that the number of medallions is capped at a fixed level, the more valuable medallions will become, and the harder it will become to ever increase their number, regardless of public need - even though the Worcester City Council was expressly given the right to authorize such increases in response to perceived public need. (Of course, the need to expand the number of taxi medallions will decrease or disappear if livery services are allowed to compete with taxi companies without the requirement of a waiting period.)

4. Any new taxi medallions to be issued should be distributed through a public auction, rather than being given away for a small fee to a lucky or favored few. (This is the method that Boston used in 1999-2001 when it issued 225 additional medallions to help finance its new convention center, and as noted above it was also used by New York City in 2007.) This policy would enable the City, rather than private individuals, to benefit from the anticipated profits resulting from the continuance of the restriction on the overall number of medallions. Aside from its other benefits, the auction system, as noted in a 2010 report by the chief financial officer of the District of Columbia, avoids the temptation to corruption that an arbitrary or purely discretionary system of distribution creates.²⁴

5. If, contrary to recommendation #1 above, the City Council votes to limit the number of livery vehicles, the right to operate liveries should similarly be distributed through an auction rather than through arbitrary selection. And provision should be made for gradual, annual increases in the number of livery medallions, paralleling the increase we have recommended in the number of taxi medallions.

6. Although there is a legitimate case to be made for having the City's License Commission set maximum taxi fares - so as to prevent out-of-town visitors from being "bilked" - there is no reason for it to set minimum fares as it currently does. Again, free competition is the American way.

FARE PLAY? Regulating Worcester's Livery Vehicles and Taxis

¹ Nick Kotsopoulos, "City Manager Recommends Moratorium on New Livery Licenses in Worcester," *Worcester Telegram and Gazette*, June 11, 2012.

² Jeremy Shulkin, "Fare Game," *Worcester Magazine*, June 20, 2012.

³ Kotsopoulos, "City Manager Recommends Moratorium."

⁴ *Ibid.*

⁵ Sources for material in the two preceding paragraphs: "The Taxi License Trade," *Worcester Telegram* editorial, April 29, 1972; "Taxicab License Now Available," *Worcester Telegram*, March 30, 1979; Russell B. Eames, "Cab Permits Added, Awarded," *Worcester Telegram*, April 13, 1979; "Cabbing It Up at City Hall," *Worcester Evening Gazette* editorial, April 24, 1979; Lee Hammel, "Cab Permit Rule Changed," *Worcester Telegram*, April 27, 1979.

⁶ Chester Arkwell, "Worcester Taxi Owners Explain Their Gripes with City License Board," *Worcester Telegram*, May 29, 1979.

⁷ Sources for material in this paragraph: Leonard Lazure, "Taxi Drivers Want License to Sell," *Worcester Evening Gazette*, June 5, 1979; Leonard Bernstein, "Council Gives Taxi Owners Big Victory," *Worcester Telegram*, June 27, 1979; Russell Eames, "Taxi System OK'd," *Worcester Telegram*, February 22, 1980.

⁸ The owner of one of the local taxi companies has argued that the increase in per capita automobile ownership since 1979 has served to negate any increase in the demand for taxi service as a result of population growth. However, since much of the City's population growth in recent decades has occurred among low-income families, including immigrants, who may own fewer automobiles per person than the general population, there may still have been a net increase in the demand for taxis or taxi-like services - as is suggested by the growth in livery services. Worcester's two leading livery companies, it should be noted, are Latino-owned and staffed by Spanish-speaking drivers, which has naturally increased their appeal in Latino neighborhoods. In addition, livery company advocates maintain that they offer more reliable service to Latino neighborhoods than regular taxi companies do. Finally, as long ago as 1987, then-City Clerk Robert O'Keefe, in arguing for an increase in the number of medallions, pointed out the substantial increase in requests for special services from taxi companies that had not existed a few years earlier, "including contracts with School Department programs, elder home care programs, and other agencies whose clients need transportation" (Geraldine Collier, "Bustling City, Limited Supply Make Cabs Harder to Catch," *Worcester Evening Gazette*, June 1, 1987). In recent years, as will be noted below, Worcester's Red Cab Company - as well as, we presume, Yellow Cab - has made full use of these opportunities for increased business.

⁹ Russell Contreras, "Latino Livery Taxis Battle Cabbies in Central Mass," *Boston.com*, March 5, 2010.

¹⁰ Clive McFarlane, "Cab and Livery Competition Heating Up," *Worcester Telegram and Gazette*, March 5, 2010.

¹¹ *Ibid.*

¹² Steven Malanga, "Taxi Industry Ripe for Radical Reform," *New York Sun*, April 22, 2002.

¹³ See the meta-analysis by Adrian T. Moore and Ted Balaker, "Do Economists Reach a Conclusion on Taxi Deregulation?," *Econjournal.watch*, 3.1 (January, 2006): 109-132.

¹⁴ The *New York Times* noted that taxi driving has long been recognized as "a poor man's gateway to mainstream America" (cited in Institute for Justice, "Challenging Denver's Taxicab Monopoly," 1993).

¹⁵ See Samuel Staley, "The Social Cost of Taxi Regulation: \$1 Million per License," *Reason.com*, October 20, 2011; Michael M. Grynbaum, "Two Taxi Medallions Sell for \$1 Million Each," *NYTimes.com*, October 20, 2011.

¹⁶ For the Boston figure, see Samuel Staley, "Boston Discusses Taxi Cab Deregulation," *Reason.com*, February 17, 2011.

¹⁷ Matt Flegenheimer, "Court Overturns Law Expanding New York Taxi Service," *New York Times*, August 18, 2012, A15.

¹⁸ All data in this paragraph come from Anna Barlett and Yesim Yilmaz, "Taxicab Medallions-A Review of Experiences in Other Cities," Briefing Note, Government of the District of Columbia, Office of the Chief Financial Officer, May 31, 2011, n. 6.

¹⁹ While local taxi industry representative call any livery vehicles that violate the City's two-hour rule "gypsy" cabs, we have defined the term more strictly to denote only unlicensed vehicles – since part of what is in question is precisely whether the City should impose the two-hour rule.

²⁰ Memo to the City Manager, July 26, 2010.

²¹ Contreras, "Latino Livery Taxis."

²² See Megan McArdle, "Why You Can't Get a Taxi - and How an Upstart Company May Change That," *Atlantic*, May, 2012; "D.C. Cab - the Revolution," *Wall Street Journal* editorial, August 14, 2012. Earlier this month, Massachusetts ordered Uber shut down, on the ground that officials had not approved its system for calculating fares; but the Patrick administration reversed the ban on August 15. Not surprisingly, despite the popularity of Uber with the fare-paying public, Boston cab drivers are continuing to seek a restoration of the ban, complaining that vehicles hired through Uber are not subject to city safety inspections, fuel-efficiency standards, or emissions standards. (Uber reports having arranged for tens of thousands of rides in the Boston area, although its rides typically cost more than cabs – albeit tips are included in the price. These figures would appear to indicate a high degree of customer satisfaction with the service.) See Michael B. Farrell, "Cabbies Vow Fight against Livery App," *Boston Globe*, August 17, 2012, B5). The *Boston Globe* has endorsed Uber and applauded the Patrick administration's endeavor to preserve it against cabdrivers' challenges: "Taxi Drivers Should Drop Effort to Ban Car-Service App," editorial, August 20, 2012, A10.

Several other start-up companies are offering similar services aimed at "connecting drivers and passengers more efficiently" through the use of smartphone apps; faced with the competition, not only established taxi companies but livery services have tried to use the law to prevent it: "As a Taxi-Hailing App Comes to New York, Its Legality Is Questioned," *New York Times*, September 5, 2012, A20.

²³ Samuel Staley, "Boston *Globe* Advocates for Taxi Deregulation," Reason.com, March 25, 2011.

At an earlier stage over the livery-vs.-taxi controversy, then-City Councilor (now mayor) Joe Petty, who chaired the Transportation Committee, expressed a reluctance to allow the number of taxi medallions to be increased lest the increase "kill an existing owner's investment." However, since some medallion owners obtained them at the original, merely nominal price, and others probably bought them early on at low prices, this policy would reward only some substantial "investments" while conferring entirely unearned profits on other purely lucky owners. And Petty himself acknowledged the deficiencies of the medallion system, remarking that if he "could recreate this from the beginning ... I'd probably not allow people to resell medallions." (Scott Zoback, "Cab Wars," *Worcester Magazine*, June, 2003). Under the circumstances, the best compromise would seem to be a scheduled, gradual increase in the number of medallions over time.

²⁴In a memorandum of August 13, 2001, to then-City Manager Thomas Hoover, City Solicitor David Moore judged that state law does not authorize the City to award taxi medallions through auction, since it provides only for cities to set fees that are needed to recoup the City's costs in regulating taxicabs. However, the Boston example suggests that cities may in fact have the authority to use the auction method. If Boston's auction required a special legislative authorization, then Worcester could seek a similar authorization.

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Worcester Regional Research Bureau
500 Salisbury Street, Worcester, Massachusetts
Telephone: 508 799 7169
www.wrrb.org