

Title 34 of the Rules of the City of New York (the “New Rule”) and ordering that the New Rule may not be enforced. Exhibit A hereto.

PARTIES, JURISDICTION AND VENUE

2. Petitioners Stephen Malone, Ian McKeever, Colm McKeever and Paul McDaid own and operate horse-drawn carriages in New York County pursuant to transferable licenses issued by the Department of Consumer Affairs (the “DCA”). They are also licensed by the DCA to drive horse-drawn carriages.

3. Petitioners Christina Hansen and Adrian Marrs are licensed by the DCA to drive horse-drawn carriages in New York City.

4. Respondent City of New York is a municipality organized and existing under the laws of the State of New York. At all times relevant to this proceeding, the City, acted through the DOT in adopting the New Rule. The City of New York’s principal address is City Hall, New York 10007.

5. Respondent DOT, an agency charged with the powers and duties set forth in Chapter 71 of the New York City Charter, is a body within the meaning of Article 78 of the CPLR. The DOT’s principal office is located at 55 Water Street, 9th Floor, New York, NY 10041.

6. Respondent de Blasio, sued herein in his official capacity of Mayor of the City of New York, is an officer within the meaning of Article 78 of the CPLR. Respondent’s place of business is located at City Hall, New York, NY 10007.

7. Respondent Trottenberg, sued herein in her official capacity as Commissioner of the DOT, is an officer within the meaning of Article 78 of the CPLR. Trottenberg’s principal office as the DOT Commissioner is located at 55 Water Street, 9th Floor, New York, NY 10041.

8. The actions of Respondents complained of herein are final in nature and cannot be reviewed adequately by another court, entity or officer. This Court thus has jurisdiction over this matter pursuant to Article 78 of the CPLR and CPLR §3001.

9. Venue lies in New York County pursuant to CPLR §§506(b) and 7804(b) because this proceeding is brought within the judicial district where Respondents adopted the New Rule and where the Respondents have their principal office.

PRELIMINARY STATEMENT

10. Under the guise of a seemingly simple amendment to a traffic rule, Mayor de Blasio and his political appointees at DOT seek to fundamentally restructure the horse-drawn carriage business, in a way that the City Council declined to do just a couple years. The New Rule among other things, (i) eliminates horse-drawn carriage boarding zones¹ (also known as “hack lines”) along Central Park South and Grand Army Plaza that have been in continuous operation for over 160 years (the “Central Park South Hack Lines”), (ii) establishes three new boarding zones inside Central Park (the “New Boarding Zones”) and (iii) prohibits the carriages² from soliciting, picking up and discharging passengers throughout the remainder of area of permitted operation. They will no longer be able to conduct point to point rides, as they have done since the inception of their business. The New York City Council declined to legislate these exact restrictions in 2016.

11. The New Rule will decimate the horse-drawn carriage industry, just as de Blasio promised he would do on “Day One” of his administration to the wealthy animal-rights activists who contributed handsomely to him both before and after he was elected. The Mayor’s end run

¹ The terms “standing zone,” “boarding zone” and “hack line” are used interchangeably herein. All refer to a location where one or more horse-drawn carriages stand waiting to board passengers. A carriage ride that begins at a standing zone does not necessarily end at the same zone since some rides are point-to-point-rides.

² The terms “horse-drawn carriages,” “horse-drawn cabs” and “carriages” are used interchangeably herein.

around a City Council that has already shown it would not enact these restrictions should not be countenanced.

12. The New Rule was promulgated by the DOT, an agency that has absolutely no experience regulating the horse-drawn carriage industry or overseeing the health, safety and welfare of carriage horses. The DOT's utter lack of experience and knowledge led to the adoption of rules that, if permitted to go into effect, will create an immediate danger to the carriage horses, drivers and the general public. Further, the New Rule is harmful to the health and well-being of the carriage horses.

13. Immediate action by this Court is urgently needed as the New Rule, if put into effect, will create an immediate danger to the health, welfare and safety of the carriage horses, the carriage drivers and the general public.

14. Professor Joseph Bertone, DVM, a renowned expert on horses, studied the New Rule and concluded that "relocating the entire herd of horses overnight to three new hack lines will be detrimental to the health and well-being of the carriage horses. They will be stressed by their new surroundings, which will be magnified because every other nearby horse will also be stressed." Affidavit of Joseph Bertone, filed herewith.

15. Further, "operating from new hack lines without any time to acclimate will also significantly increase the risks to the horses, drivers, passengers and general public of an incident with one or more of the horses. The time that it will take each horse to become acclimated to the unfamiliar hack lines will vary by horse, but it could be several weeks or more." Affidavit of Joseph Bertone.

16. There is no benefit whatsoever to the carriage horses.

On balance, given the potential impact of moving the hack lines on the health and well-being on the carriage horses, the risks created by such a move and the absence of any health benefits to the carriage horses from such a move, it is my opinion that the status quo is in the best interest of the horses and the public.

Affidavit of Joseph Bertone.

17. One of the zones, the East Drive Zone, is dangerous to the horses, drivers and general public. The carriages are being placed in a narrow lane that is not wide enough for one carriage to safely pass another. Exhibit B hereto. On one side, the carriages will be boxed-in by parked vehicles. On the other side, they will be boxed-in by a raised, sloping Belgian brick plaza that the horses and carriages cannot safely traverse. In case of an emergency, such as an ill horse or driver, there is no exit. There is no way to calm a nervous horse by walking him. There is no way to lead a boxed-in horse to water.

18. Dr. Bertone studied the East Drive Zone and concluded that it “will be harmful to the health and well-being of the carriage horses and will create unreasonable safety risks to the horses, drivers, passengers and the general public.”

19. The New Rule also does not set aside boarding zones that are long enough for all 68 carriages to stand. During slow times, it is absolutely necessary that all 68 carriages have a lawful place to stand. It appears that in determining how long the new zones needed to be, the DOT only calculated the length of the boarding zones it has marked with signs along 59th Street. This calculation reflects a fundamental lack of understanding about the horse-drawn carriage industry. Anyone who knows anything about the horse-drawn carriage industry knows that many horses line up in places that have not been marked as standing zones by the DOT, such as no-parking zones and along the eastern border of Central Park. Because the carriages may stand in these unmarked areas, there is sufficient space for all 68 spaces in the Central Park South zone. But since the three new zones are only as long as the zones that are currently marked, there will not be sufficient space for all 68 carriages to stand. As a result, all 68 carriages will not be able to operate at the same time for much of the year.

20. The New Rule therefore deprives the statutorily granted right for all 68 licensed carriages to operate at all times during their permitted hours of operation.

21. The New Rule will also disproportionately impact people with accessibility challenges, since, depending on the particular zone, either the boarding or discharge area will be far from 59th Street, in areas that are not accessible to motor vehicles. In addition, in many of the zones, there are neither sidewalks nor boarding and discharge areas shielded from bikers, skaters, runners, emergency and park motor vehicles or any of the myriad other persons and objects in motion. The new boarding zones are a nightmare for mobility-challenged members of the public.

22. The New Rule will also make it impossible for the carriage drivers to comply with their legal obligations under the law, thus rendering them subject to substantial fines and license forfeitures. For example, in one of the proposed boarding zones, the carriages are completely boxed-in and there is no way for any horse-drawn carriage to leave the line early. This will result in drivers being unable to comply with the legal requirement that a carriage horse work no more than nine hours in a day.

23. As explained below, the Rule is also arbitrary and capricious. It is evident that it was drafted by people who have no idea about the business of horse-drawn carriages and have no concern for the health and well-being of the carriage horses, carriage drivers or the general public.

24. In their zeal to do the bidding of de Blasio and his animal-rights financiers, the DOT also ran roughshod over the rights of the horse-drawn carriage owners and drivers by intentionally violating the City Administrative Procedure Act.

25. The due process rights of the Petitioners were also violated by the DOT.

BACKGROUND FACTS

A. The Long History of the New York City Horse Drawn Carriages

26. Horse drawn carriages have been hacking rides throughout Manhattan since the City was first established. Central Park South and Grand Army Plaza have always served as a billboard and storefront for the New York City carriage business and are both a literal, practical landmark and a designated one. Moving carriages into the park removes them from easy visibility and accessibility to potential customers.

27. The image of Central Park, a registered National Historic Landmark, as well as a New York City Scenic Landmark that has appeared in countless paintings, movies, shows and pictures, will be changed forever. A stroll along Central Park South, where pedestrians are now buffered from traffic by the magnificent horses and their carriages, will become just another noisy walk. The carriage horses will now be hidden from plain view to passing cars and, to a great extent, pedestrians as well. The value of being on such prominent display is incalculable. That this wonderful tradition has survived for over a century and a half, while so many others haven't, is the best evidence of this.

28. The findings of the Landmarks Preservation Commission in 1974, supporting the landmarking of Grand Army Plaza, recognize that the Plaza was designed to serve as a standing area for the horse-drawn carriages. Exhibit C hereto.

29. The carriages have been located at the main entrances of Central Park on its southern end since the creation of the park in the 1850s. Not only are these carriages and horses highly visible to pedestrians on Central Park South on the park side, but they are highly visible to pedestrians on the opposite side of the street and to motorists and passengers in taxicabs and tour buses. Putting the carriages inside the park, mostly at an angle perpendicular to Central Park South, greatly reduces their visibility to passersby.

30. Currently, an overwhelming percentage of both day and night carriage rides through the park are from walk-up customers. These potential customers pass by on the sidewalk on Central

Park South and Grand Army Plaza before they even enter the park. In fact, many customers, especially at night, would not have even considered going into the park but for their interaction with the carriage driver and horse on the much more heavily trafficked sidewalk outside the park walls.

31. Much of the “sales” work done by carriage drivers is initiated by customers who approach the drivers to ask how much a ride is or where the ride goes, or even simply to ask if they can pet the horse. Indeed, the horse itself is a selling point and the best advertisement for the ride, as well as a source of free entertainment and enjoyment to those who don’t take a ride.

32. The New Boarding Zones greatly reduce the sidewalk access to the horses, eliminating it completely in the East Drive New Boarding Zone and almost completely in the Seventh Avenue Zone. The Sixth Avenue Zone removes the horses from pedestrian traffic on Central Park South. The removal of horses from public access not only cuts down on interaction with potential customers, but also cuts down on interaction with the general public from whom word of mouth on both the economic and political front is an important area of support.

33. The Central Park South Hack Lines get enough foot traffic and visibility to sustain business, though the carriages currently compete with the far-more-recently introduced pedicabs, who also give tours through the park.

34. The New Boarding Zones are behind a designated parking area inside the park at Grand Army Plaza and far behind pedicabs hacking on the corners of Central Park South and Sixth and Seventh Avenues. This configuration of New Boarding Zones (pedicabs are not so limited outside the park) gives the pedicabs a competitive advantage. In fact, anti-carriage organizations like NYCLASS have often promoted pedicabs over carriages in their literature and in lobbying activities.

35. The alternative to walk-up rides are reserved rides pre-purchased online from a particular carriage operator. These rides then meet at one of the existing carriage zones and leave from there. However, due to the inadequacies of the New Boarding Zones, this aspect of the business will suffer significantly as well.

36. Carriage business at Central Park drops off precipitously after dark, in accordance with decreased foot traffic on Central Park South, but not as precipitously as foot traffic inside the park does. As a result, after 9 PM carriages venture to Rockefeller Center and other street zones where they are allowed to work during the week, and after 11:30 PM (7 PM on Sundays), they travel to Times Square where their customers are. Currently, carriages pick up and drop off in the streets as they are allowed to do in the absence of DOT-designated boarding zones.

37. Limiting these boarding zones to well inside the park effectively deprives the carriages of reaching their customer base and denies them the right to operate in all the zones and at the times granted to them by the City Council through the New York City Administrative Code (“Administrative Code”). Further, carriages departing for a street ride from the Sixth Avenue New Boarding Zone must travel an additional 15-20 minutes (at an additional expense to the customer) before they are able to provide a carriage ride through the streets, past Rockefeller Center or through Times Square.

38. If the New Rule goes into effect, the carriages will no longer be able to provide point to point rides, as they have done since the inception of their business. Point to point rides are an important part of the carriage business.

39. The carriages will suffer a significant loss of business due to the following: reducing the amount of time individual carriages will be available to take fares due to lack of space in the New Boarding Zones, additional travel time to and from the New Boarding Zones, inconsistency of service for pre-bought rides due to lack of space in the New Boarding Zones, inability to leave

the East Drive New Boarding Zone once entered, lack of visibility from the street and to passersby, lack of interaction on the sidewalk between the driver/horse and potential customers, unfair competition from pedicabs created by the city's actions, and lack of night business. This loss of business ultimately will impact not just individual drivers or carriage owners, but also the stables where the horses are kept.

40. These stables collect rent from each carriage who works out of that stable. If some carriages go out of business, which is likely, then the stables are negatively impacted, too. If a sufficient number of carriages go out of business or cannot pay their rent, the stables could go out of business too, forcing the remaining carriages out of business as well.

41. Nothing about the New Rule benefits the horses or their drivers. Everything about it is designed to hurt the horses and the business.

42. The New Rule is just the latest salvo in a battle by animal-rights extremists to do away with the horse-drawn carriage industry that they have been waging for decades.

43. The New Boarding Zones, if they are permitted to go into effect, will destroy a 160-year-old tradition of having the main entrances to Central Park ringed by these classic carriages for the enjoyment of New Yorkers and tourists alike. The cherished image of Central Park, a registered National Historic Landmark, as well as a New York City Scenic Landmark, that has appeared in countless paintings, movies, shows and pictures, will be destroyed. A stroll along Central Park South, where pedestrians are now buffered from traffic by the magnificent horses and their carriages, will become just another noisy walk.

44. The New York City horse-drawn carriage industry demonstrates all that is right about New York City. It is an industry comprised of dozens of small family owned and operated businesses, many of which own just a single medallion. Many of the owners, like Petitioner Malone, took over the business from their parents. It is a business dependent on hard work and

long hours. There are no multinational conglomerates in this business. There are no shortcuts to success in this business. Every penny of income is dependent on someone taking a ride.

45. The industry provides hundreds of jobs such as carriage drivers, stable workers, farriers and veterinarians. The industry, in turn, supports dozens of other small businesses, such as the companies that supply the hay and feed and that repair and maintain the carriages. Many of the workers are recent immigrants, who are seeking a place for themselves through hard work. The carriage industry also generates a lot of business for the food and other vendors in and around Central Park. If the carriage industry's business is harmed, these business will suffer as well.

B. The New Rule Is Dangerous and Injurious To the Carriage Horses

46. As set forth at ¶¶13-18 above, the New Rule will create a dangerous situation. It is harmful to the carriage horses, drivers and the general public.

47. There is no health benefit whatsoever to the carriage horses from moving their hack lines.

48. Expert after expert who has examined the New York City carriage horses has concluded that they are well cared for, healthy and that the horse-drawn carriages are operated in a safe manner.

49. The Department of Health and Mental Hygiene ("DOHMH") did not consult with either of the two most knowledgeable people working for it before sending its Commissioner sent its letter dated August 15, 2018 to the DOT. The DOHMH equine veterinarian and Norma Torres, the Director of the DOHMH's Veterinary Public Health Service were not consulted about whether moving the hack line from Central Park South into Central Park was beneficial to the health of the carriage horses.

50. When the horses are lined up along the curb on 59th Street, which they are for most of each day, they are not interacting with passing motor vehicles. Even a casual observer can see that the horses are relaxed and well-adjusted to the Central Park South Hack Lines.

51. A DOT-sponsored multi-year traffic study of Hell's Kitchen from 2007-2014 did not identify any issues with carriage or horses in the study area, which included all four stables and all but the last four blocks of the carriages' commute to Central Park. There were no safety, congestion, pedestrian or community concerns with carriages.

52. The carriage horses are perfectly healthy and stress-free while operating in the Central Park South Hack Lines. Moving the boarding zones, on the other hand, will have a negative impact on their health.

53. One reason that the carriage horses are so well adjusted to the Central Park South Hack Lines is the method by which new horses are trained. Not every horse is well suited to pulling a carriage in New York City. Because of this, before purchasing a new horse, each owner gives a prospective carriage horse a try-out period of at least two to three weeks to see if they can be acclimated to the operating environment in Manhattan. The training that they undergo includes spending a substantial amount of time at the Central Park South Hack Lines, which time is intended to help them get acclimated. The horses that don't adjust to city life are returned to the sellers.

54. Petitioners estimate that of the carriage horses currently in service, about half have been working the Central Park South Hack Lines for 10 years or longer. To these horses, working from the Central Park South Hack Lines is second nature. It's what they know and what they expect. Requiring them to change their ways will be upsetting and stressful to them.

55. There are about approximately 140 horses boarded in New York City at any given time that are working as carriage horses.

56. Relocating all 68 licensed horse-drawn carriages at once overnight would require that the carriage horses stop what they have become habituated to and suddenly begin working from the new unfamiliar areas. This will create a highly stressful condition for the entire industry. No

person experienced with horses would ever recommend such a massive, instantaneous relocation of so many horses.

57. The amount of time the carriage horses spend operating on the streets outside of Central Park will not appreciably change even if the New Rule goes into effect. The carriage horses will still travel the same route to and from their stables on the West Side and they will still carry passengers along Grand Army Plaza and Central Park South. Their standard “short route” will still travel over the same vehicular-traffic-loaded streets for substantially the same amount of time.

C. The Carriage Industry Is Comprehensively Regulated by the City Council

58. Since its inception, the carriage industry has been extensively regulated by the Board of Alderman, the Common Council and now the City Council. For example, in 1813, the Common Council adopted A Law to Regulate Hackney Coaches (in those days horse-drawn carriages were referred to as hackney coaches) that, among other things, established public stands throughout the City. Exhibit D hereto.

59. The statutory right to stand along drawn carriages appears to have first been legislated in 1863, when the Common Council legislated as follows:

Resolved, That the hackmen now having public stands on Fifty-ninth street, at the Fifth, Sixth, Seventh, and Eighth avenues, be, and are hereby, allowed permission to use those stands on Sunday until otherwise ordered by the Common Council.

Exhibit E hereto.

60. By an ordinance that became effective in July 1866, the Common Council reiterated that horse-drawn carriages had a statutory right to stand waiting for hire along Fifty-ninth Street.:

Resolved that hereafter all hackney-coaches waiting for hire, to be driven in the Central Park, may stand at all times, Sundays included, at the following places, viz.: in Fifty-ninth street, from Fifth to Seventh avenue; in Seventy-second street, between

Eighth and Ninth avenues; west side of Fifth avenue, between Seventy-first and Seventy-second streets and in One Hundred and Tenth street, between Fifth and Eighth avenues.

Exhibit F hereto.

61. Since that time, the Common Council and City Council have enacted numerous ordinances specifically recognizing the right of the horse-drawn carriages to solicit, board and discharge passengers in the Central Park South Hack Lines. Insofar as Petitioners are aware, there has not been a single legislative act prohibiting the horse-drawn carriages from lining up along Central Park South and the Grand Army Plaza.

62. For so long as Petitioners have been operating horse-drawn carriages, the DOT and other agencies have permitted them to solicit, pickup and discharge passengers anywhere they are permitted to operate during the hours they are allowed to operate. If the New Rule is allowed to go into effect, that will no longer be the case. The curtailment of this right to conduct our point to point business will be economically devastating to the industry.

63. This is not just idle speculation, because when Petitioner's operating zones and hours were first curtailed by the City Council in 1989, the industry suffered a severe economic blow, even though the industry's right to solicit, pick up and discharge passengers within the new zones was not curtailed.

64. The limitation of the area in which horse-drawn carriages could operate and the hours of operation was first enacted in 1989, when the City Council adopted Local Law 89. This law, among other things, placed significant limitations on where horse-drawn carriages could hack rides. For example, horse-drawn carriages were not permitted to hack rides in Times Square prior to midnight on weekdays. To offset the anticipated economic harm to the horse-drawn carriage industry from these new restrictions, the City Council agreed to establish new boarding zones throughout the operating zones.

65. It was for that reason that the Council granted the DOT the authority to establish new boarding stands in the new limited operating areas:

Horse drawn cab stands. The commissioner shall designate by regulation specific locations on the streets, avenues and roadways which shall be, on and after a date when such regulation shall become effective, the sole locations where passengers may board horse-drawn cabs.

NYC Administrative Code §19-171 (subsequently expired and in 1994 reenacted as NYC Administrative Code §19-174).

66. The legislative history and circumstances surrounding the adoption of Section 19-171 clearly show that the intent of the City Council in enacting this regulation was to grant the DOT the power to establish new standing zones in areas of the City frequented by tourists as a means to offset the losses to the industry of limiting their times and areas of operations and not to kill the Central Park South hack lines. Further, it is clear that Section 19-171 is not a grant of authority to the DOT to establish boarding zones within Central Park.

67. Local Law 89 was the result of three earlier City Council “Intros”: Nos. 489, 1038 and 1262-A, in that chronological order. The provision at issue is not part of either 489 or 1038; it was added by Intro 1262-A.

68. A drafter’s report prepared by the General Counsel of the City Council’s Legal Services Division unambiguously states that the hack stands referenced in this new proposal were “to be established by regulation of the Dept. of Transportation.” In other words, the intent of this newly added provision was to grant the DOT Commissioner the authority to establish new hack stands in the restricted areas where the horse-drawn carriages were being operated. The General Counsel’s report does not contain any suggestion that the newly added provision was intended to permit the DOT to kill the Central Park South Hack Lines.

69. Further by limiting the locations where new hack stands could be erected to “streets, avenues and roadways,” the City Council clearly evinced its intent not to permit new hack stands to be erected within Central Park, where there are only “drives.”

70. During the various hearings leading up to the adoption of Local Law 89, the subject of killing the Central Park South Hack Lines was not discussed. Had it been, the opposition of the horse-drawn carriage industry would have been loud and vigorous.

71. Following the adoption of Local Law 89, there were communications between the DOT and the horse-drawn carriage industry concerning potential locations for new carriage stands. At one meeting between the DOT and legal counsel for the industry, at least 10 locations were identified where new boarding zones could be established.

72. Additionally, in the years following the adoption of Local Law 89, no City agency restricted the horse-drawn carriages from soliciting, picking up or discharging passengers anywhere in the areas they were permitted to operate.

73. The next comprehensive legislation regulating the horse-drawn carriage industry was Local Law 2, which was enacted by the City Council in 1994. Local Law 2 expanded the area where carriage horses could operate as well as the hours of operation. The intent of doing this was to aid the horse-drawn carriage industry, which had suffered greatly under Local Law 89’s severe restrictions.

74. Among many other things, Local Law 2 replaced Administrative Code Section 19-171, which expired in 1993, with Administrative Code Section 19-174, which remains in place today and provides, in relevant part, as follows:

19-174. Passengers boarding horse-drawn cabs.

a. The commissioner shall designate by rule specific locations on the streets, avenues and roadways which shall be the sole locations where passengers may board horse-drawn cabs if such passengers have not prearranged such horse-drawn cab rides in accordance with the provisions of subdivision b of this section and any rules promulgated pursuant thereto.

b. (1) Horse drawn cabs may accept passengers on a prearranged basis in areas and at times that are not restricted pursuant to section 20-381.1 of the code. Such prearranged rides shall commence in front of hotels and restaurants that have obtained the approval of the owner of the premises at which such hotel or restaurant is located.

b. (2) This subdivision shall not be construed to permit the operation, parking, stopping or standing of any horse-drawn cab in any area at any time where or when such operation, parking, stopping or standing is prohibited by any other law or rule.

75. Representatives of the horse-drawn carriage industry actively participated in all aspects of Local Law 2's adoption. During the adoption process, the subject of removing the Central Park South Hack Lines never came up. If it had, the industry would have vociferously objected.

76. In the 30 years that have elapsed since the adoption of the former Administrative Code section 19-171, the DOT has not promulgated any rules prohibiting horse-drawn carriages from picking up or discharging passengers anywhere within their permitted areas of operation, nor has it met with the industry regarding the elimination of the Central Park South Hack Lines.

D. Ending the Carriage Horse Business Is the Mayor's Long-Stated Goal

77. De Blasio is committed to putting the New York City horse-drawn carriage industry out of business. The New Rule is just his latest attempt to do this, after the City Council refused his proposed legislation to move the Central Park South Hack Lines into Central Park in 2016.

78. Public records show that de Blasio, directly and indirectly, has been the recipient of over one million dollars of donations and support from Steve Nislick, Wendy Neu, NYCLASS and other animal-rights activists.

79. NYCLASS is an organization that exists for the purpose of putting the horse-drawn carriage industry out of business. Wendy Neu and Steven Nislick are synonymous with NYCLASS.

80. During his mayoral campaign, de Blasio made a number of appearances at NYCLASS fundraisers, such as those held in November 2011, May 2012 and October 2012.

81. The importance of all of this direct and indirect support became apparent in March 2013, when de Blasio announced that if elected, he would ban horse-drawn carriages on his “first day in office,” even though there was no basis in law or fact for such an action.

82. Shortly after his election in 2013, de Blasio headlined a NYCLASS fundraiser at the Hippodrome, a building owned by Edison Properties, a company with a long relationship to Nislick. At that event, Bill de Blasio told NYCLASS supporters that he was “proud” to be associated with NYCLASS.

83. After taking office, the Mayor undertook a number of steps to ban the New York City carriage horses. Among those efforts were at least six meetings with Nislick and Neu. The Mayor however did not meet even once with the carriage industry, who stood to lose their businesses and jobs. The carriage industry, unlike Nislick and Neu, had not made any contributions to de Blasio.

84. The relationship between de Blasio and Nislick is amply demonstrated by an email dated February 26, 2015, in which the Mayor’s Director of Legislative Affairs informs the Mayor’s Chief of Staff that Nislick is “concerned that DOHMH missed an opportunity to shine a negative light on the industry” Shockingly, the Mayor’s advisers agreed “to make sure it doesn’t happen again.” Exhibit G hereto. This email amply demonstrates the agreement between de Blasio and Nislick to work together to harm the horse-drawn carriage industry.

85. There can be no doubt that Nislick expected that the Mayor he had so handsomely contributed to would pay him back by banning the carriage horses. This is evident from an email Nislick sent de Blasio in June 2015 in which he complained about the lack of progress on legislation to ban the industry:

We just off the phone with Marco who said they have not been able to get any additional votes and he does not know if it going to happen. I don't get it!! **To tell this now after we just spent 500K is totally ridiculous.**

Exhibit H hereto.

E. The City Council Refused to Enact the Same Restrictions That the DOT Is Now Trying to Impose

86. Having accepted significant amounts of money from animal rights-activists, Mayor de Blasio, in December 2014, acting through the City Council, proposed a local law, Intro 573, to ban the carriage horse industry in its entirety (the "de Blasio Ban Bill"). Exhibit I hereto.

Councilmembers Helen Rosenthal and Mark Levine (who also wrote to the DOT to support the New Rule) were two of the bill's sponsors. The de Blasio Ban Bill was supported by the ASPCA (which also wrote to the DOT to support the New Rule). The ASPCA, together with Nislick, cofounded NYCLASS.

87. A hotly contrested public hearing on the de Blasio Ban Bill was held by the City Council's Transportation Committee on January 22, 2016. At the hearing, members of the de Blasio administration testified that since 2009 there were only 15 reported incidents involving horse-drawn carriages. Only 10 involved other vehicular traffic and none of them involved horses on the hack lines around Central Park.

88. After the hearing, de Blasio amended his proposed bill, and asked the New York City Council to legislate that the Central Park South Hack Lines would be moved into Central Park and that the horse-drawn carriages would be prohibited from soliciting, boarding or discharging passengers anywhere other than within Central Park. Exhibit J hereto.

89. The City Council, however, refused to enact the Mayor's bill and since then, it has not enacted any further legislation regarding the horse-drawn carriage industry.

90. Although the de Blasio Ban Bill ultimately was not passed by the City Council, the Mayor pressed on with his attempts to kill the horse-drawn carriage industry. The New Rule is just the next step in de Blasio's plan to kill the horse-drawn carriage industry.

F. The DOT Did Not Follow the City Administrative Procedure Act

91. On August 31, 2018, the Friday before a three-day weekend, and without any prior notice to the horse-drawn carriage industry, the DOT issued a Notice of Public Hearing and Opportunity to Comment on Proposed Rules to Establish Horse Carriage Passenger Boarding Areas (the "Proposed Rule Changes") in the City Record Online and elsewhere (the "Public Notice"). Exhibit K hereto. According to the Public Notice, a hearing was to be conducted on October 3, 2018, at which members of the public would have an opportunity to comment (the "Public Hearing").

92. The DOT's Public Notice asserted that the DOT was acting at the request of the New DOHMH. However, in response to a Freedom of Information Law request by legal counsel for Petitioners, the DOHMH could not identify any safety incidents involving a carriage horse standing in one of the Central Park South Hack Lines in the past three years. Exhibit L hereto

93. The DOHMH also informed legal counsel that it has no documents concerning the health benefits of moving the carriage horse boarding zones into Central Park. Exhibit L hereto.

94. The Proposed Rule Changes were not included in the DOT's regulatory agenda for 2018.

95. The Public Notice was not sent to any other representatives of the horse-drawn carriage industry.

96. The horse-drawn carriage industry has not received any outreach from the DOT about the Proposed Rule Changes.

97. The New York City Administrative Procedure Act provides that in addition to holding a public hearing, an agency seeking to adopt a rule must seek the input "the discrete regulated

community” that will be affected by the proposed rule. N.Y.C. Charter § 1043(e). The DOT not only failed to seek input from the “discrete regulated community” here (the horse-drawn carriage industry), it also rebuffed attempt after attempt by the industry to discuss the proposed rules.

98. On at least three occasions before the Notice of Adoption was issued, representatives of the horse-drawn carriage industry reached out to the DOT to discuss the Proposed Rule Changes. The DOT refused to have any discussion or meeting with these representatives.

99. The first such attempt by the horse-drawn carriage industry took place on September 27, 2018, when Petitioner Hansen reached out to DOT representative Sean Quinn to provide the industry’s feedback and better understand the DOT’s decision-making process. Quinn, however, rebuffed the reachout, telling Hansen that under the advice of City Corporation Counsel, Hansen’s only opportunity to speak in front of a DOT representative was the October 3 Public Hearing. Quinn, however, left the door open for direct meetings after the Public Hearing, telling Hansen that there would be plenty of time after the hearing for there to be meetings to discuss the details and work things out.

100. The Public Hearing conducted on October 3rd was chaotic and packed with members of the public. The number of people wishing to speak exceeded the capacity of the hearing room and so attendees were shuffled in and out. Due to the huge crowd, speaking time was limited to two minutes per speaker. The hearing process solely consisted of members of the public making comments. There was no interactive process with any of the DOT representatives who were present.

101. At the Public Hearing, Petitioner Hansen and another industry representative approached Quinn and a lawyer for the DOT to followup on Quinn’s prior statement that there would be plenty of time after the hearing for there to be meetings to discuss the details and work

things out. The DOT lawyer, however, curtly told them that there would no meetings between the DOT and the industry.

102. Despite being twice rebuffed, Petitioner Hansen did not give up. On October 17, 2018, Hansen and another industry representative tried for a third time to have a substantive discussion/meeting with the DOT. They approached DOT Commissioner Trottenberg at a public forum and asked to have a substantive meeting with the DOT about the Proposed Rules. Hansen asked Trottenberg why the DOT was proposing a rule that would require passengers to board and deboard horse-drawn carriages in traffic. Trottenberg shrugged and stated, “Well you know the Mayor just feels very strongly about this.” That was the last communication between the DOT and the industry pertaining to the Proposed Rules. The Mayor’s desire to kill the Horse drawn carriage industry has been discussed above.

G. The Notice of Adoption and the New Rule

103. The Notice of Adoption (“NOA”) (Exhibit A) was posted on the City website on January 4, 2019. Per the NOA, the DOT added a new rule: Subsection t(1) to Section 4-12 of Chapter 4 of the Rules of the City of New York to be effective February 15, 2019:

(t) Horse drawn cab passenger boarding areas.

(1) No person operating a horse drawn cab shall solicit, pick up or discharge passengers at any location other than a location described in paragraph (2) of this subdivision or a location designated by the department by a posted sign as a horse drawn cab passenger boarding area. This subdivision shall not apply to a horse drawn cab ride that is prearranged as described in section 19-174 of the New York City Administrative Code.

(2) Except as otherwise indicated by a posted sign, operators of horse-drawn cabs must expeditiously pick up or discharge passengers only at locations within Central Park indicated by sign and on the map below:

(i) Grand Army Plaza. In the center lane at the Grand Army Plaza entrance to Central Park.

(ii) Seventh Avenue Entrance. On the east curb, approximately 20 feet north of Central Park South.

(iii) Sixth Avenue. Between 59th Street and Center Drive

104. If New Rule goes into effect, carriages will be prohibited from picking up and discharging customers in many areas where they traditionally have operated, such as Tavern on the Green, Strawberry Fields, Bethesda Terrace, Times Square, Rockefeller Plaza, the major museums and anywhere else within the area of permitted operations. Subsection “t” also bans the horse-drawn carriages from picking up and discharging passengers where they have done so for over 160 years -- Central Park South and Grand Army Plaza.

105. As described above, horse-drawn carriages have always been free to hack passengers anywhere in their operating area and convey them from point to point, just as taxicabs may do. Although the City Council has limited the operation of horse-drawn carriages to within certain designated zones at certain times, there is no City Council legislation limiting the right of the carriages to conduct their point to point business with the zone.

106. The New Boarding Zones as a whole will cause the horse-drawn carriage industry significant harm and are certain to cause some undetermined number of carriages to go out of business.

107. The City Council has legislated that 68 horse-drawn carriages may operate at all times that operations are allowed. Indeed, the New York City Administrative Code states that there shall be no fewer than 68 licensed horse-drawn cabs. However, the three new boarding zones created by the New Rule are not sufficiently lengthy to permit all 68 horse-drawn cabs to stand at once, something that often happens on days that the business is slow. That deprives carriage owners of rights granted them by the City Council.

108. According to the NOA, the New Boarding Zones are just 1,105 feet in length. However at least 1,700 feet is required to accommodate all 68 horse-drawn carriages.

109. Today, a number of horse-drawn carriages line up in areas around Central Park that are not designated by the DOT as boarding areas. For example, several carriages line up at

the curb that borders the east side of Central Park, across the street from the officially designated boarding zone. Other carriages stand in No Parking zones on Central Park South, where they are allowed to stand under the New York State Vehicle and Traffic Law. During the summer season, several carriages may line up outside Tavern on the Green. (No horse-drawn carriages line up at the Tavern on the Green in the off season or at night, though, since there is not any demand there for rides at those times.) Once the New Rule goes into effect, all of this will be prohibited. The horse-drawn carriages will only be allowed to board passengers in the three new zones, which as described above are plainly insufficient to accommodate all of the horse-drawn carriages.

110. Further, carriages that do not have a spot to stand in one of these New Boarding Zones will be forced to drive around to other New Boarding Zones, looking for space to stand. This increases the work that the horse will have to do, and also increases the time the carriage is not allowed to operate or take on fares due to the time spent in transit. It takes approximately 15 minutes to travel from the 6th and 7th Avenue New Boarding Zones to the East Drive New Boarding Zone via the park drives, and 5-10 minutes to travel from the East Drive New Boarding Zone to the zones on 6th and 7th. It is likely that during slower seasons a carriage may spend hours driving around waiting for a space to open up because they will not be allowed under the New Rule to stand at any place but the New Boarding Zones, nor will they be allowed to take on any fares they may encounter.

H. The East Drive Zone Is Dangerous, Will Compel Drivers to Violate the Work Time Regulation and Is Not Accessible to Disabled Persons

111. The boarding zone located in the center lane of the East Drive is dangerous. It is not wide enough for one carriage to pass another. Exhibit B hereto. In addition, there is no safe way for a carriage to leave the line early.

112. Placing the horses in this lane means that passengers boarding and deboarding carriages will be forced to cross the busy south bound lane of the East Drive in order to access

the carriages. This lane, which currently only accommodates horse-drawn carriages, will now also be traveled by all other traffic that currently uses the East Drive – bicycles, pedicabs, park vehicles, law enforcement vehicles and emergency vehicles.

113. The center lane is bounded on either side by two large vertical curbs. However, there is no proper sidewalk by those curbs. Instead, there are narrow (approximately two foot) medians made of uneven Belgian blocks, the purpose of which is not to facilitate foot traffic, but to divide existing traffic. The center lane where the carriages will be standing is not wide enough to allow two carriages to pass each other, and the high curb and median prevent a carriage from safely crossing over to the traffic lane to leave. This means that a carriage that enters the back of the boarding zone and joins the line is now stuck in that zone until the carriages in front of it either get fares or leave.

114. Further, the trapping of horses in the East Drive New Boarding Zone by the unsuitable curb situation presents a hazard to the health and safety of the horses. From time to time, a horse may become ill and need to be moved, whether to return to the stables for veterinary care, or to be assessed/treated by movement. A particular horse, returning from a ride, may, after discharging passengers, need to return home or be moved to the shade (which is not at all continuous in this boarding zone). An unusual vehicle, object or group of people may approach the carriage stand and present a situation that some horses find alarming (while others may be unconcerned). The driver in this case does not have the option of moving their horse and avoiding a potentially frightening and dangerous situation (some horses, particularly newer horses, are bothered by things like protests, with their attendant signs and drums). The dangerous East Drive New Boarding Zone does not allow drivers the freedom to come and go as necessary for the health and safety of the horses in their care.

115. Administrative Code Section 17-330(g)(1) limits the time carriage horses may be out of their stables and at work to nine hours in a 24-hour period. This nine-hour limit includes the horse's travel time to and from its stable. Under the New Rule, a carriage that is in the middle of the East Drive New Boarding Zone is trapped and unable to leave until carriages in front of it get fares. This may take far longer than the allowed time the horse has remaining to work, which will result in the driver and owner being issued citations and incurring monetary penalties, as well as the potential suspension and forfeiture of their licenses.

116. Finally, the East Drive New Boarding Zone is not accessible to disabled persons. The front of the line where passengers board is not accessible by taxis and other vehicles. It is located a significant distance inside the park, without proper sidewalk access to the step of the carriage. Upon returning to the New Boarding Zone, the carriage will now be located even further inside the park, still without a proper sidewalk and forcing the passengers with mobility issues – potentially with a walker or wheelchair - to climb over an uneven median and then cross the busy southbound lane, dodging bicycles and pedicabs traveling at a high rate of speed coming off a long downhill stretch of drive.

I. The Sixth Avenue Zone Is Congested and Is Not Accessible to Disabled Persons

117. The Sixth Avenue New Boarding Zone presents numerous logistical issues that were not considered by the DOT. Because this one was not part of the New Rule when it was proposed, the Industry did not have the chance to offer comments about it at the October 3rd Public Hearing.

118. Although taxis and other vehicles will be able to drop off passengers with mobility issues near the rear of the stand at the Artists' Gate near 59th Street. However, upon their return, passengers will be discharged near the front of the stand, towards the stoplight and crosswalk. This requires a significant walk out of the park and to a waiting vehicle, assuming

that the carriage can even return to the stand. Under the New Rule, carriages will not be able to drop off passengers unless except in the New Boarding Zones. If there turns out to be no room once the carriage returns and reenters the park from Central Park South, the carriage and passengers will have to continue around the short ride loop to the New Boarding Zone on the East Drive, another 15 minutes away. Once in the East Drive New Boarding Zone, the passengers will be faced with all the challenges of disembarking from the carriage mentioned in the preceding section, and the carriage driver will be stuck in that New Boarding Zone until the carriages in front of them have gotten fares or left.

119. The Sixth Avenue New Boarding Zone is also highly congested. The Center Drive here is only a fraction of the width of the main park Lower Loop drive. Horses coming from the 7th and East Drive New Boarding Zones or just starting rides from the back of the Sixth Avenue New Boarding Zone, waiting in line to access the water trough located in the middle of this New Boarding Zone, will be forced to double park alongside other carriages in the rearmost spots of the stand, nearest 59th Street. This will block all vehicular traffic for parks and emergency vehicles and, as well as almost entirely block bicycle traffic, especially for large tour groups.

120. Once the Sixth Avenue New Boarding Zone has been entered, the only way out of the New Boarding Zone is to continue through the park on the park drives, making either a short or long loop to exit the park. When it is time to leave the park due to it being the end of the shift for a horse, or due to a weather suspension, the only way out adds at least 20 minutes or more to travel time. This additional travel time takes from the maximum allowable working time of nine hours for the horse and represents a clear economic loss of income due to the driver being able to do fewer rides. It is impossible to make a U-turn and exit the park as a matter of regular course

due to the road being one-way and far too congested to allow for two-way traffic in addition to the carriages parked in the Boarding Zone.

J. The Seventh Avenue Zone Is Dangerous, Congested and Detrimental to Horse Health. It, Too, Is Not Accessible to Disabled Persons

121. The Seventh Avenue New Boarding Zone requires carriages to drop off passengers without a curb or sidewalk upon returning to the New Boarding Zone.

122. Currently, the Seventh Avenue exit to the park is a one-way southbound out of the park. Instead of having carriages stand and board on the west side of the drive where there is a sidewalk for passengers to board and discharge, the DOT is forcing passengers to disembark from the carriages into traffic on the east side of the drive. Except for the first carriage spot, which features a Belgian block area for boarding from a sidewalk, all other spots in the New Boarding Zone are limited by a fence right at the curb. This fence will require passengers to disembark not on the curbside, in contravention of all DOT norms, but into an active roadway, where they risk being struck by fast moving bicycles, pedicabs and emergency vehicles.

123. Furthermore, if the New Boarding Zones are not to alter the routes currently taken by carriages, the Parks Department must continue to allow the current practice of leading horses against traffic down the hill into the park, in order to return to the rear of the New Boarding Zone upon finishing a short ride (in addition to beginning any ride to avoid Central Park South, though carriages still will travel on Central Park South to access the water trough at Sixth Avenue for long rides, and to avoid extra U-turns and congestion inside Seventh Avenue). This means that the bottom of the Seventh Avenue drive where it joins the West/Center Drive on the Lower Loop will involve standing carriages on the eastern curb facing southbound; exiting carriages, pedicabs, bikes and park and emergency vehicles in the right hand, western lane(s) traveling southbound at speed; carriages in hand and pedicabs being walked headed northbound in the middle lane to make a right turn onto the Lower Loop; and carriages in hand making the U-turn

returning from short rides at the bottom of the hill along with carriages crossing inbound and outbound traffic to return from long rides.

124. Add to the mix passengers disembarking from carriages into traffic, carriage drivers taking pictures of their fares in the carriage and with the horses, passengers feeding the horses carrots without the protection of a curb and sidewalk, and people with limited mobility trying to cross traffic and it is easy to see that this is a recipe for disaster.

125. Once again, carriage rides leaving from this New Boarding Zone are removed from access by taxis and other vehicles on Central Park South. Upon return from the ride, people with disabilities or mobility issues will have to disembark into traffic, without a curb to shorten the height of the carriage, and cross the busy drive, through traffic, to access the nearest sidewalk. That sidewalk then has no wheelchair access cutout and puts the passenger at the bottom of a hill to walk out of the park, much farther from vehicular access on Central Park South than they started.

126. The Seventh Avenue New Boarding Zone is also an improper place to have horses stand for long periods of time. It is on a significant hill, which forces horses to hold the weight of the carriage while standing, rather than resting in between rides as they are supposed to do. On occasion, when horses are forced to stand on this hill due to special events once or twice a year, they demonstrate their discomfort, and require angle parking to use the curb to hold the carriage. Repeated stopping and starting on the hill to advance to the front of the line, day in and day out, even with using the curb as a backstop, will result in extra strain on the horses, resulting in repetitive-use injuries and arthritis, and ultimately shortening the working life of the horses that use this stand. Shortening the working life of carriage horses results in a greater turnover of horses, which requires additional expenses for carriage owners in purchasing and training new horses, as well as creating additional safety risks every time new horses are brought into the city.

127. The fence along the majority of the length of the curb along the Seventh Avenue New Boarding Zone presents a safety hazard for horses. The fence is there to protect grass and other plants (which may or may not be toxic to horses). Horses, by nature, are attracted to vegetation and by curiosity will constantly be interacting with this fence and the vegetation within. The uncapped t-posts and wire fencing are dangerous objects that could injure horses, catch bridles, harness and hooves, and otherwise cause spooking and trauma.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

- 128. Petitioners repeat and reallege paragraphs 1 – 127 hereof, as if fully set forth.
- 129. By adopting the New Rule, Respondents acted in excess of their jurisdiction.
- 130. By reason of the foregoing, the New Rule should be annulled, voided and vacated.

SECOND CAUSE OF ACTION

- 131. Petitioners repeat and reallege paragraphs 1 – 127 hereof, as if fully set forth.
- 132. Respondents failed to comply with the provisions of the City Administrative Procedure Act.
- 133. By reason of the foregoing, the New Rule should be annulled, voided and vacated.

THIRD CAUSE OF ACTION

- 134. Petitioners repeat and reallege paragraphs 1 – 127 hereof, as if fully set forth.
- 135. The New Rule is arbitrary and capricious and an abuse of discretion.
- 136. By reason of the foregoing, the New Rule should be annulled, voided and vacated.

FOURTH CAUSE OF ACTION

- 137. Petitioners repeat and reallege paragraphs 1 – 127 hereof, as if fully set forth.
- 138. The New Rule constitutes a taking of the property interests of Petitioners without just compensation and therefore violates the rights of Petitioners under the Fifth Amendment to the United States Constitution and therefore the New Rule is affected with an error of law.

139. By reason of the foregoing, the New Rule should be annulled, voided and vacated.

FIFTH CAUSE OF ACTION

140. Petitioners repeat and reallege paragraphs 1 – 127 hereof, as if fully set forth.

141. The New Rule deprives the Petitioners’ of their property rights without due process of law and is therefore made in violation of lawful procedure.

142. By reason of the foregoing, the New Rule should be annulled, voided and vacated.

REQUEST FOR RELIEF

WHEREFORE, Petitioner seeks judgment as follows:


1. Annulling, voiding and vacating the amendments to Subdivision (t) to Section 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York, as specified in the Notice of Adoption.

2. Prohibiting Respondents, and each of them, from enforcing the amendments, as specified in the Notice of Adoption Subdivision (t) to Section 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York.

3. Awarding Petitioners counsel fees and expenses under CPLR Article 68.

4. Awarding Petitioners such other and further relief as the Court deems just and proper.

Dated: February 3, 2019
New York, New York

By: 

Craig L. Sheldon
425 East 63rd Street., #E9F
New York, NY 10065
(917) 921-0843
Attorney for Petitioners

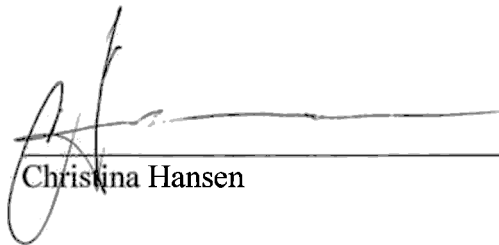
VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Christina Hansen, being duly sworn, deposes and says:


I have reviewed the petition and know the contents to be true to my own knowledge, except to those matters alleged in ¶¶64-76 which are alleged on information and belief, and as to those matters, I believe them to be true.

Dated: New York, New York
 February 3, 2019



Christina Hansen

Sworn to before me on
February 3, 2019



Notary Public

CRAIG L SHELDON
Notary Public, State of New York
Reg. No. 02SH6184637
Qualified in New York County
Commission Expires July 30, 2020