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April 1, 2014

VIA E-MAIL

Steve M. Biskupic, Esq.
Biskupic & Jacobs, S.C.
1045 West Glen Oaks Lane, Suite 106
Mequon, WI 53092

Re: *Badwan, et al. v. City of Milwaukee*
Case No. 2:14-CV-00179

Dear Attorney Biskupic:

I write to you to confirm the City of Milwaukee's position relative to the above-referenced litigation. In return for the plaintiffs' motion to dismiss the above-referenced case without prejudice, the City of Milwaukee will not seek court and other statutory costs against the plaintiffs.

The City of Milwaukee has long protected the plaintiffs' property interest in their taxicab permits by requiring the renewal of their taxicab permits unless adequate and competent evidence is put forth showing that suspension, non-renewal or revocation of the permit is warranted. *See*, Milwaukee Code of Ordinances (MCO) § 100-50-14 through 16. Additionally, plaintiffs may lease their permitted taxicab vehicles to licensed drivers. However, plaintiffs do not have a protectable property interest in the value of their taxicab permits on the secondary market. *See, Minneapolis Taxi Owners Coalition, Inc. v. City of Minneapolis*, 572 F.3d 502, 509 (8th Cir. 2009).

Currently, MCO § 100-50-4-a-3 limits the number of new taxicab permits to be issued by the City prior to November 1, 2014 to not more than 420 and not less than 320. Section 100-50-11-i requires the Legislative Reference Bureau (LRB) of the City Clerk's Office to provide an annual report to address matters related to the issuance of additional taxicab permits. To assist the LRB report, MCO § 100-72 requires the City of Milwaukee to receive and review operational plans and dispatch data from certified taxicab affiliations. This dispatch information includes trip records of time and address of passenger pick up and destination, distance traveled, fare and fees charged, and records for reservation or hail-on-demand service. *See*, MCO § 100-72-4 through 6. As you know, on March 20 and March 24, 2014, the Milwaukee City Clerk issued various press releases requesting public comment and taxicab industry input on proposed regulations regarding quarterly dispatch record report requirements and non-cash payment acceptance policies.

As the plaintiffs are also aware, local media outlets have recently publicized the Uber and Lyft roll out of internet-based, Smart Phone applications in the City of Milwaukee that facilitate ride sharing. These ride sharing apps have challenged traditional public passenger vehicle regulations across the United States and Europe and are arguably changing the entire dynamic of urban public transportation. The City of Milwaukee continues to review various state and municipal regulations and related litigation across the nation in Common Council communication file # 131538.¹ In my own review, it seems that some states and municipalities have embraced the new technology and incorporated new regulations for ride sharing apps, while other governments have created parallel regulations alongside long-standing taxicab regulations. Other municipalities have banned the use of the ride sharing apps for fear that the public safety and welfare was not adequately protected by the ride sharing application companies. From both a regulatory and litigation standpoint, the delivery of public passenger vehicle transportation in urban areas is most definitely in a state of flux. At this point in time, the City of Milwaukee has not yet determined what, if any, regulations may be considered in the future relative to the Uber and Lyft proposals. Frankly, these ride sharing apps were not even considered in the 2013 City of Milwaukee legislation that is the subject matter of the above-referenced litigation.

Current City of Milwaukee taxicab permittees are in a unique position to assist the City of Milwaukee to determine appropriate public passenger vehicle regulations in light of the Uber and Lyft ride-sharing apps. Historically, public passenger taxicab vehicle permit regulations were created to ensure the public's safety, welfare and convenience by requiring the inspection of motor vehicles to determine safety and cleanliness; the licensure of all public passenger vehicle drivers, including a background checks by the Milwaukee Police Department and a public vetting of the application before a licensing committee of the Common Council; and to promote consumer protection by preventing price gouging.

In conclusion, the City of Milwaukee firmly defends its exercise of discretion in the 2013 legislation of public passenger taxicab vehicle permit regulations. The City of Milwaukee also reserves its right to modify its public passenger taxicab vehicle regulations as new circumstances require, such as the proposals by the Uber and Lyft ride sharing apps. As this process develops, it seems that current taxicab permittees should engage the City of Milwaukee in vetting proposals and developing rules necessary to protect public safety, health and welfare.

¹ See, <https://milwaukee.legistar.com/LegislationDetail.aspx?ID=1662463&GUID=39B01203-6CD6-4741-83B3-A0D0DAEF1629&Options=ID|Text|Attachments|&Search=uber> (last visited, April 1, 2014).

Steve M. Biskupic, Esq.

April 1, 2014

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Please feel free to contact me with any questions or concerns.

Very truly yours,

s/ ADAM B. STEPHENS

Assistant City Attorney

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