

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2005 DEC 22 AM 9:01

**TO:** Office of the City Administrator  
**ATTN:** Ms. Deborah Edgerly  
**FROM:** Administrative Hearing Officer  
**DATE:** January 3, 2006

**RE:** A Public Hearing on the Appeal of the Administrative Hearing Officer's  
Decision to Revoke Taxi Medallion Number 303, and Adopting a Resolution  
Affirming Hearing Officer's Revocation of Taxi Medallion (Vehicle  
Operating Permit) Number 303

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**SUMMARY**

On March 24, 2005, at the request of the Oakland Police Department's Taxi Detail Unit, the Administrative Hearing Officer conducted a public hearing to determine whether Oakland Taxi Permit Number 303, issued to Maurice Thomas, should be revoked. On April 24, 2005 the Administrative Hearing Officer rendered a decision to revoke the permit. The party who held the permit at the time of the hearing, Mr. Willie R. Gullatt, timely submitted an appeal through his counsel, Leonard Gross, Esq.

The grounds for the appeal cited no error in the decision, but stated "If we had been able to produce the power of attorney at the hearing, I believe we would have been successful in having the decision for continuance of the permits. I am therefore asking for a hearing before the City Council after 90 days from now so I will have the time to produce the power of attorney."

**FISCAL IMPACT**

There is no fiscal impact of revoking this permit, other than the annual renewal fee of \$350. This impact will cease when the permit is re-issued.

**BACKGROUND**

Oakland Municipal Code section 5.64.050D states that Vehicle permits issued by the city are the property of the city and shall not be sold, assigned, bequeathed, leased, or transferred, expressly or by operation of law, unless the City Manager determines that such sale, assignment, or transfer is made to a proposed permittee who is in compliance with the taxicab operating requirements of this chapter.

The Oakland Police Department Taxi Detail Unit administers Oakland's taxi permits. Their policy has been to authorize transfer of permits only upon proof of legal chain of possession, based upon the documented intent of the permittee. The Taxi Detail's files show that a taxi permit was issued to Allie Thomas in 1960. After proving that they were the legal heirs, the application of Maurice F. Thomas and Marcie Lee Thomas to operate this permit was approved

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on April 7, 1970. The Oakland Municipal Code was amended, effective January 1, 1988, requiring holders of taxicab permits to exchange their existing permits for the numbered medallions required by the amended ordinance. On March 24, 1988, Maurice and Marcie Thomas exchanged their un-numbered permit for Vehicle Permit 303. On December 4, 1995, Maurice Thomas entered into a lease agreement for Veterans Cab Company to lease Vehicle Permit 303 from December 4, 1995 to December 4, 1997. The Taxi Detail files contained no extension of this lease.

Beginning in the year 2000, the Taxi Detail Unit instituted fleet reporting, which included the requirement for a yearly notarized statement, signed by permittee, authorizing the continuation of permit lease. The party to whom the permit is leased, in this case Veterans Cab Company, receives the fleet reporting package, and it is their responsibility to contact the permittee and obtain the permittee's signed, notarized authorization continuing the lease. For three years, beginning in 2001, the statement for Maurice Thomas was not signed by the permittee, Mr. Thomas, but rather was signed "Maurice Thomas by Helen Anderson." Despite the absence of the permittee's signature the permit was allowed to continue to operate through 2004.

Officer Matthew Greb began managing the Taxi Detail Unit in 2004. On November 30, 2004, after again receiving no authorization signed by Mr. Thomas, Officer Greb sent a letter to Mr. Thomas, through Veterans Cab Company, as his current address was unknown to the Taxi Detail Unit. The letter requested documentation on the person or persons who have a legal right or authorization to operate the permit. No response was received other than from Linda Kremer, Fleet Manager of Veterans Cab Company, who wrote that Mr. Thomas was "nowhere to be found" and that "Helen Anderson has been taking care of his belongings for the past 3 years." Ms. Kremer added that Veterans Cab had "no papers showing that Helen has power of attorney".

In January, 2005 Mr. Willie Gullatt, the appellant in this case, and Ms. Helen Anderson, who is Mr. Gullatt's sister, requested that Mr. Thomas' permit be transferred to them. In the letter they did not assert that they held any legal authorization from Mr. Thomas, but stated that he [Mr. Gullatt] was "very experienced in the operation of a taxi business."

On January 19, 2005, the Taxi Detail Unit requested that the City Administrator revoke Vehicle Permit number 303, issued to Maurice Thomas, on the grounds that Mr. Thomas had not been located since 2001 and had apparently abandoned the permit. The letter noted that Ms. Anderson had been managing the permit but "with no apparent legal authority to do so." A public hearing was held on March 24, 2005 at 3:00 p.m. in Hearing Room 2, City Hall, 1 Frank H. Ogawa Plaza, Oakland, California.

Present at the hearing were Mr. Willie R. Gullatt, Mr. Gullatt's attorney, Mr. Leonard Gross, Ms. Linda Kremer of Veterans Cab Company, and Officer Matthew Greb of the Taxi Detail Unit of the Oakland Police Department. Mr. Gullatt testified through his attorney, Mr. Gross, that Mr. Gullatt had power of attorney from Mr. Thomas, which authorized him to operate this permit; and that Mr. Gullatt leased the permit to Veterans Cab Company. Mr. Gullatt believed he had

supplied the Taxi Detail Unit with a power of attorney from Mr. Thomas, and, until this year, because the permit had not been revoked, there had been no indication that anything was wrong. However Mr. Gullatt could not locate the power of attorney, and it did not exist in the Taxi Detail Unit's file.

Mr. Gross asked for additional time in which Mr. Gullatt could try to locate the power of attorney. Mr. Gullatt located neither the power of attorney or any proof of Mr. Thomas' intent for Mr. Gullatt to manage the taxi permit by April 18, 2005. The Administrative Hearing Officer therefore issued the decision to revoke Permit 303, on the grounds of City ownership of the permit and the inability of Mr. Gullatt to prove legal chain of possession, based upon the documented intent of permittee Mr. Thomas.

### **KEY ISSUES AND IMPACTS**

At stake here is the ability of the OPD Taxi Detail Unit to enforce its policy to approve transfers of permits only when the intent of the permittee is documented. The fact that Mr. Gullatt had been allowed to retain the permit for three years in spite of not meeting this requirement does not give him the right to do so when the proof is demanded. Mr. Gullatt had four and one half months prior to the Hearing Officer's decision to produce the legal proof of intent. He did not do so.

As recently as October, 2005, the Taxi Detail Unit conducted a search for permit holder Mr. Thomas, utilizing the California Law Enforcement Terminal Services (CLETS) database available to the Oakland Police Department. This search yielded no information regarding Mr. Maurice Thomas.

### **POLICY DESCRIPTION**

Oakland Municipal Code section 5.64.050D authorizes the Taxi Detail Unit to completely disallow all transfers. The Taxi Detail Unit, however, has instituted a policy of allowing transfers when the intent of the permittee is documented. This increases the value of the permit to the permittee and allows the permittee to find an acceptable transferee by notarizing the transfer intent. The requirement to show written intent of transfer protects the holder of the permit from being deprived of his permit without his express authorization. Only when there is no express authorization does the permit return to the City. Therefore, the Taxi Detail Unit's requirement for written, notarized proof of the permittee's intent is a reasonable requirement.

### **Standard For Revocation And Appeal to City Council**

Taxicab permits are controlled by OMC Chapter 5.64, and the standards for revocation and appeal review are defined in Chapter 5.02. Pursuant to OMC section 5.02.080, "Any permit granted pursuant to the provisions of this chapter may be revoked or suspended by the City Manger . . . , for any reason for which a granting of such permit might be lawfully denied."

Pursuant to OMC section 5.64.050, the transfer of this permit to Mr. Gullatt could be lawfully denied based upon the requirement that permits shall not be transferred unless the City Manager determines that the *proposed* permittee is in compliance with the taxicab operating requirements of the chapter. In this instance, there is no evidence, other than Mr. Gullatt's statement, that a transfer was ever intended by the holder of the permit.

Pursuant to OMC section 5.02.100, anyone excepting to a permit revocation may appeal to the City Council within 14 days. At the hearing the appellant must show cause on the grounds specified in the notice of appeal why the action should not be approved. The City Council's findings on the appeal are final and conclusive.

Through his counsel, Mr. Gross, Mr. Gullatt timely appealed, requesting "a hearing before the City Council after 90 days from now so I will have time to produce the power of attorney." Mr. Gullatt did not find error in the process or decision, but rather asserted that more time would allow him to prove his legal chain of possession.

## **SUSTAINABLE OPPORTUNITIES**

### Economic

The revocation of this permit has no long-term economic effect. There are a fixed number of taxi permits, and the revoked permit will be returned to the City to be re-issued in the next taxi permit lottery.

### Environmental

There are no environmental impacts of revoking this permit.

### Social Equity

There are no social equity impacts of revoking this permit

## **DISABILITY AND SENIOR CITIZEN ACCESS**

There are no disability or senior citizen access issues involved in the revocation of this permit.

## **RECOMMENDATION AND RATIONALE**

The Administrative Hearing Officer recommends that the City Council uphold the revocation of Taxi Permit 303. Mr. Gullatt and/or Ms. Anderson have been operating the permit without the proof of legal chain of possession required by the taxi detail. Mr. Gullatt found no error in the Administrative Hearing Officer's process or decision, but merely requested additional time to prove a legal chain of possession. It is the Taxi Detail Unit's position that, prior to their request for a revocation hearing, Mr. Gullatt had adequate time to produce his proof of legal chain of possession. Furthermore, the City has provided substantial, additional time for Mr. Gullatt to locate either Mr. Thomas or the alleged power of attorney authorizing Mr. Gullatt to operate the permit. Over seven months have elapsed since Mr. Gullatt appealed the revocation of the permit, and neither Mr. Thomas nor the power of attorney has been located.

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The Taxi Detail Unit's policy of requiring proof of legal chain of possession is designed to protect permit holders against unauthorized use of their permits and to exercise the City's control over permits when the permittee does not make his/her intent known. Should the City Council overturn the Administrative Hearing Officer's decision without proof of Mr. Thomas' intent, others would be encouraged to assert their control over permits when the permittee could not be located.

It is important that the Taxi Detail Unit enforce their policy of requiring proof of legal chain of possession uniformly. All other lease-holders of taxi permits were able to comply with the requirement within the time allowed Mr. Gullatt.

#### **ACTION REQUESTED OF THE CITY COUNCIL**

The Administrative Hearing Officer requests that the City Council move to affirm the Hearing Officer's decision and uphold the revocation of Taxi Medallion Number 303.

Respectfully submitted,

  
Barbara B. Killey  
Administrative Hearing Officer  
Office of the City Administrator

APPROVED AND FORWARDED TO THE  
CITY COUNCIL

  
OFFICE OF THE CITY ADMINISTRATOR

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Alex M. Peltier  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AFFIRMING ADMINISTRATIVE HEARING OFFICER'S  
REVOCATION OF TAXI MEDALLION (VEHICLE OPERATING PERMIT) NUMBER  
303**

**WHEREAS**, pursuant to Oakland Municipal Code section 5.64.050, vehicle permits issued by the city are the property of the city and shall not be leased unless the City Administrator determines that the lease is in compliance with the operating requirements of the OMC and;

**WHEREAS**, pursuant to Oakland Municipal Code section 5.64.055, the form and contents of the annual application for a vehicle operating permit, also known as taxi medallions, are determined by the Chief of Police and;

**WHEREAS**, the Chief of Police, through the Oakland Police Department Taxi Detail Unit, has established a requirement that lessees of taxi medallions obtain the notarized authorization of the taxi medallion permit holder, authorizing the continuation of the lease for the application year and;

**WHEREAS**, the lessee of taxi medallion number 303, Willie R. Gullatt, has been unable to (1) produce the required notarized authorization for the permit years of 2000 through 2005, (2) locate the permit holder, Maurice Thomas, or (3) produce a power of attorney from Mr. Thomas authorizing Mr. Gullatt to operate the permit on his behalf, and;

**WHEREAS**, the Taxi Detail Unit has determined that, in the absence of at least five years of lease authorization by the permit holder, the permit holder has abandoned the permit, and;

**WHEREAS**, the Taxi Detail Unit requested that the City's Administrative Hearing Officer revoke the abandoned permit, and;

**WHEREAS**, on March 24, 2005, the City's Administrative Hearing Officer conducted a public hearing on this issue and determined that the permit should be revoked, pursuant to the standards established by Oakland Municipal Code section 5.02.080, and;

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**WHEREAS**, Oakland Municipal Code section 5.02.100 provides for an appeal to the City Council of permits revoked under the Chapter,  
and;

**WHEREAS**, Mr. Gullatt timely appealed the Hearing Officer's decision,  
and;

**WHEREAS**, the City has provided Mr. Gullatt with over seven months to locate either Mr. Thomas or the alleged power of attorney from Mr. Thomas and he has failed to locate either,  
and;

**WHEREAS**, the Taxi Detail Unit has repeatedly attempted to locate Mr. Thomas, including, but not limited to, searching databases available to the Oakland Police Department in October 2005, and has attempted to locate the alleged power of attorney by searching the Taxi Unit's files,  
and;

**WHEREAS**, after more than seven months, Mr. Thomas or the alleged power of attorney has not been discovered or brought forward,

Now, therefore, be it

**RESOLVED**, the City Council finds and determines that every reasonable effort has been made to locate the permit holder, Maurice Thomas,  
and;

**RESOLVED**, the City Council finds and determines that Taxi Medallion 303 has been effectively abandoned by the permit holder,  
and;

**RESOLVED**, the Office of the City Administrator Administrative Hearing Officer's April 24, 2005 decision to revoke taxi medallion number 303 is affirmed

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2005

**PASSED BY THE FOLLOWING VOTE:**

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND  
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California

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