

DISTRESSED DRIVERS: SOLVING THE NEW YORK CITY TAXI MEDALLION DEBT CRISIS

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ABSTRACT

For years, the price of a New York City taxi medallion—a permit required for a driver to operate a yellow cab—soared higher and higher, reaching more than one million dollars. After Uber and other rideshare companies entered the industry in the early 2010s, medallion prices crashed suddenly and precipitously, plummeting to only around \$150,000 in a matter of years. Many medallion owners are hardworking drivers who now face extremely high debt loads and precarious economic circumstances through no fault of their own. This Note explains the severe impact of this medallion debt crisis and how it came to exist. Because efforts to obtain relief through litigation have failed, this Note argues that local, state, and federal government officials should adopt proposals to offer financial assistance to medallion owners. This Note outlines some of these proposals and argues that the unique circumstances of the taxi medallion price crash and debt crisis warrant robust support for medallion owners.

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TABLE OF CONTENTS

Introduction 172

I. Background: How the Taxi Medallion Debt Crisis Emerged 176

 A. The Early History of Taxi Medallions..... 176

 B. The Taxi & Limousine Commission and 20th Century Developments 178

 C. The Medallion Price Crash: Uber Comes to New York..... 181

 D. Fraud in the Medallion Market 184

 E. The Consequences: Economic and Emotional Distress..... 185

 F. The Efforts to Provide Relief to Drivers..... 188

II. Taxi Medallion Owners’ Failed Litigation Efforts..... 191

 A. Medallion Owners’ Recurring Legal Claims..... 191

 1. Unsuccessful Takings Claims 192

 2. Unsuccessful Equal Protection Claims..... 195

 3. Unsuccessful Due Process Claims 196

 B. Failed Litigation in New York State Court 198

 C. Failed Litigation in the Second Circuit Court of Appeals 198

 D. Similar Results in Other Federal Courts 199

 E. How Taxi Medallion Owners Can Move Forward..... 199

III. Solving The Taxi Medallion Debt Crisis..... 200

 A. New York City’s New Medallion Relief Program 200

 B. Additional Actions That New York City Should Take 202

 1. The City Should Continue to Negotiate with Other Lenders..... 202

 2. Assist Former Medallion Owners Who Have Declared Bankruptcy 202

 3. The City Should Create a Medallion Buyback Program 203

 C. Actions New York State Should Take..... 205

 D. Actions the United States Federal Government Should Take 206

 E. Why Taxi Medallion Owners Deserve Additional Support..... 208

 F. Moving Forward: Ensuring Worker Protections for Taxi Drivers... 210

Conclusion 211

INTRODUCTION

In 2006, Alix decided to purchase a taxi medallion in order to operate his own taxi in New York City (“the City”).¹ Alix immigrated to Brooklyn from Haiti when he was 17 years old and had shuffled between low-paying jobs for years.² Hoping to finally earn a good living, Alix took the advice of his friends and planned to buy a taxi medallion.³ These friends assured him that he could set his own hours and earn as much as \$50,000 each year as a taxi driver.⁴ The business was so promising, they claimed, that Alix could achieve the “American Dream.”⁵ Alix hesitated when he heard the medallion cost \$385,000 and wondered how he could ever pay back such a large sum.⁶ However, his friends promised him that this was a safe investment.⁷ He would have to make a monthly loan payment, but in fifteen or twenty years the medallion’s value would have grown so significantly that he could retire on its sale.⁸ Alix confidently found a broker,

1. Telephone Interview with Alix, Taxi Medallion Owner in New York City (Nov. 20, 2020) [hereinafter Interview with Alix]. For privacy reasons, the author has excluded Alix’s last name from this Note. Taxi medallions are licenses issued by New York City that permit individuals to operate an official taxicab. They were first created in the 1930s to regulate the number of cars on the City’s streets and to ensure that those working as drivers would be able to turn a profit given that they would only be competing for fares with the limited number of other medallion owners, initially just over 13,000. Daniel Kowalski, *How Cronyism Created New York City’s Taxi Medallion Bubble*, FOUND. FOR ECON. EDUC. (Oct. 8, 2019), <https://fee.org/articles/how-cronyism-created-new-york-city-s-taxi-medallion-bubble/> [<https://perma.cc/DE3W-CBZK>]. This Note will elaborate on the history and purpose of taxi medallions in more depth in Part I. *Infra* Part I.

2. Interview with Alix, *supra* note 1. By 2014, “only 8 percent of New York City taxi and for-hire drivers were born in the United States.” Matt Flegenheimer, *American-Born Cabbies Are a Vanishing Breed in New York*, N.Y. TIMES (Feb. 9, 2014), <https://www.nytimes.com/2014/02/10/nyregion/american-born-cabbies-a-vanishing-breed-in-city.html> [<https://perma.cc/F5H3-JES9>].

3. Interview with Alix, *supra* note 1.

4. *Id.*

5. *Id.* Many drivers purchase a medallion in hopes of obtaining a middle-class life for their families. Naureen Khan, *These Taxi Drivers Thought They Were Buying the American Dream. Instead, They Got Despair*, VICE NEWS (July 8, 2019), <https://www.vice.com/en/article/zmp9z9/these-taxi-drivers-thought-they-were-buying-the-american-dream-instead-they-got-despair> [<https://perma.cc/VLS5-DXGM>].

6. Interview with Alix, *supra* note 1. While \$385,000 was already an extremely steep price for a medallion, prices surged over the next five years, reaching a high of \$1 million. Felix Salmon, *Why Taxi Medallions Cost \$1 Million*, REUTERS (Oct. 11, 2011), <https://www.reuters.com/article/idUS127464283420111021> [<https://perma.cc/L6U2-FMBR>].

7. Interview with Alix, *supra* note 1.

8. *Id.* With massive loan balances, many medallion owners are forced to pay enormous sums for their monthly loan payments. In some cases, these monthly payments

purchased his medallion, and took out a loan for the full \$385,000 sum.⁹ For his first few years on the job, everything went well, and as guaranteed by his friends, he earned a good living.¹⁰ He worked hard but was still able to take off at least one full day a week, and he even saved up funds for vacations and hobbies.¹¹ Additionally, because the value of his medallion kept rising, Alix's lender allowed him to borrow on equity.¹² This increased his debt load but granted Alix the ability to pay for some larger expenses such as a new car and his daughter's wedding.¹³

Things changed quickly when Uber started operating in the City during the early 2010s.¹⁴ Previously, the only approved taxi drivers were those affiliated with the City's 13,857 licensed medallion cabs.¹⁵ Over the

can equal half of a driver's monthly income. Brian M. Rosenthal, *A \$1.7 Million Loan, \$30,000 in Income. Prosecutors Are Now Investigating*, N.Y. TIMES (Sept. 10, 2019), <https://www.nytimes.com/2019/09/10/nyregion/nyc-taxi-medallion-investigation.html> [<https://perma.cc/7553-DTC8>].

9. Interview with Alix, *supra* note 1. While some brokers served as honest intermediaries, many others "took advantage of lax regulations to rake in boatloads of cash while burdening yellow cab owners with crippling debt." Clayton Guse, *Mayor de Blasio Moves to Crack Down on Taxi Medallion Brokers Who Prey on Cab Drivers*, N.Y. DAILY NEWS (July 8, 2019), <https://www.nydailynews.com/new-york/ny-tlc-medallion-broker-review-20190708-xc75qxslsxnalxib7jg7uwpfmqi-story.html> [<https://perma.cc/8X82-MWYJ>].

10. Interview with Alix, *supra* note 1.

11. *Id.*

12. Equity is the appraised value of an asset minus the outstanding mortgage and loan balances. Jeanne Lee, *What Is Home Equity?*, BANKRATE (Jan. 19, 2021), <https://www.bankrate.com/home-equity/what-is-home-equity/> [<https://perma.cc/2L5J-3V2X>]. In Alix's case, while he had initially borrowed \$385,000, the appraised value of his medallion soared upwards of \$500,000. He was able to borrow another \$100,000 on equity, which raised the amount of debt he owed to well over \$400,000. Interview with Alix, *supra* note 1. Because medallion values rose so rapidly in the first decade of the 21st century, many medallion owners who had already borrowed extremely large sums borrowed even more on equity, increasing the amount of debt they held and further reducing the likelihood that they could pay off the loan once medallion values crashed. Brian Pascus, *How to Stabilize the Taxi Industry*, CRAIN'S N.Y. BUS. (Nov. 17, 2020), <https://www.crainsnewyork.com/instant-expert/how-stabilize-taxi-industry> (on file with the *Columbia Human Rights Law Review*).

13. Interview with Alix, *supra* note 1.

14. Adrienne Jeffries, *After Long Battle, Uber Becomes First Taxi App to Get Approved in New York City*, THE VERGE (Apr. 26, 2013), <https://www.theverge.com/2013/4/26/4271490/uber-becomes-first-taxi-app-to-get-approved-in-new-york-city> [<https://perma.cc/QM57-JZDT>] ("New Yorkers in need of a ride may be able to drop the rigorous arm-waving this weekend—as long as there are enough Uber cabs on the street.").

15. Clayton Guse, *Driving NYC Taxis out of Business: How Uber and Lyft Doomed the Once-Solid Yellow Cab Industry*, N.Y. DAILY NEWS (Jan. 20, 2020), <https://www.nydailynews.com/new-york/ny-medallion-foreclosures-taxi-bailout-plan-uber-lyft-20200130->

course of just a matter of months, though, thousands of Uber drivers took to the streets in their personal cars and severely diminished the number of riders Alix and other taxi drivers served.¹⁶ Monthly loan payments became tougher.¹⁷ Soon, Alix learned that the medallions were not selling for as much.¹⁸ Five years later, in 2016, prices had plummeted to \$160,000. But Alix had to keep driving, because if he lost his income, he would never be able to repay his debt.¹⁹ For the last few years, Alix has had to cut personal expenses and increase working hours just to make his monthly loan payments.²⁰

In March of 2020, the COVID-19 pandemic struck.²¹ Alix, who is over 70 years old, was forced to stop working,²² as it was not safe to be driving passengers.²³ The COVID-19 pandemic only exacerbated Alix and his family's existing economic woes.²⁴

Alix is not alone. Thousands of City taxi drivers are in a similar position through no fault of their own.²⁵ These hardworking individuals—

s2mjkhhubzggptdxasoxddwdote-story.html [https://perma.cc/2HSS-FZ5D] (“By the mid-2000s, medallions—which give yellow cabs the exclusive right to take street hails—sold for between \$400,000 and \$500,000.”); *Yellow Cab*, N.Y.C. TAXI & LIMOUSINE COMM’N, <https://www1.nyc.gov/site/tlc/businesses/yellow-cab.page> [https://perma.cc/4ATZ-5SHX].

16. Interview with Alix, *supra* note 1.

17. *Id.*

18. *Id.*

19. Ameena Walker, *In NYC, 139 Prized Yellow Taxi Medallions Will Hit the Auction Block*, CURBED (June 11, 2018), <https://ny.curbed.com/2018/6/11/17450366/nyc-taxi-medallions-bankruptcy-auction> [https://perma.cc/6QTQ-ZNAN] (“In 2013, a medallion was worth as much as \$1.3 million; however, competition from ride-hailing apps like Uber and Lyft has driven medallion prices down to as low as \$160,000.”); Interview with Alix, *supra* note 1.

20. Interview with Alix, *supra* note 1.

21. Joseph Goldstein & Jesse McKinley, *Coronavirus in N.Y.: Manhattan Woman Is First Confirmed Case in State*, N.Y. TIMES (Mar. 1, 2020), <https://www.nytimes.com/2020/03/01/nyregion/new-york-coronavirus-confirmed.html> [https://perma.cc/PR3A-WGCG].

22. Interview with Alix, *supra* note 1.

23. Interview with Alix, *supra* note 1; Heather Long, *A New York City Taxi Driver Kept Working to Pay Bills. Now He and His Family are Sick*, WASH. POST (Apr. 4, 2020), <https://www.washingtonpost.com/business/2020/04/04/taxi-driver-covid/> [https://perma.cc/WW4U-ABLE] (“He thinks he knows who infected him. The man said he tested positive for covid-19 . . . He felt helpless. New York City taxi drivers can’t kick people out or refuse to drive them.”).

24. Interview with Alix, *supra* note 1.

25. Brian M. Rosenthal, *New York Taxi Drivers Are Being Crushed by Debt. Now the State Will Investigate Why*, GOVERNING (May 21, 2019), <https://www.governing.com/topics/finance/NYC-Taxi-Drivers-Are-Being-Crushed-Under-Debt-Now-the-State->

primarily immigrants²⁶—believed driving a taxi was a promise of economic well-being so long as they worked hard.²⁷ This promise was premised primarily on the exclusivity that taxi medallion owners were supposed to have over the roads.²⁸ When drivers purchased medallions prior to the introduction of rideshare apps, they knew that the Taxi & Limousine Commission (“TLC”) had capped the quantity of medallions at a certain level to prevent excessive competition and to ensure that all medallion owners could earn enough fares to make ends meet.²⁹ By purchasing a medallion, they were buying into a system that failed to provide many worker protections, but at least would preserve the state of the market so that their job would not become obsolete.³⁰ When the City permitted rideshare vehicles to flood the streets, the City failed to uphold its end of the deal with medallion owners.

Today, thousands of drivers are struggling.³¹ Many face tremendous financial difficulties.³² For too many, these financial strains have led to mental health calamities and even suicide.³³ COVID-19 has exacerbated an already serious situation.³⁴ Thus far, drivers’ efforts to litigate for relief have failed, so it is now necessary to consider other remedial avenues.³⁵ Fortunately, in November 2021, the City brokered an

Will-Investigate.html [https://perma.cc/CRJ6-7BPD] (“More than 950 medallion owners have filed for bankruptcy, and thousands more are struggling to stay afloat.”).

26. Flegenheimer, *supra* note 2.

27. See Brian M. Rosenthal, *They Were Conned: How Reckless Loans Devastated a Generation of Taxi Drivers*, N.Y. TIMES (May 19, 2019), <https://www.nytimes.com/2019/05/19/nyregion/nyc-taxis-medallions-suicides.html> [https://perma.cc/AH4U-5BRK].

28. Haas Act, ch. 9, 2012 Sess. Law News of N.Y., § 4 [c] (amending L 2011, ch. 602) (2012); L 2011, ch. 602, as amended by L 2012, ch. 9, §§ 4 [c], 11 (2012).

29. Telephone Interview with Jonathan, Taxi Medallion Owner in New York City (Nov. 22, 2020) [hereinafter Interview with Jonathan]. Jonathan’s last name is not included for privacy reasons. Jonathan purchased his medallion in March 2007 after friends convinced him that its value was guaranteed to grow. Much like Alix, Jonathan immigrated to Brooklyn from Haiti when he was a young man. Jonathan is now over 60 years old. Jonathan still has more than \$300,000 left on his medallion loan and has been facing significant financial difficulties. *Id.*

30. *Id.*

31. Rosenthal, *supra* note 27. (“Over more than a decade, they channeled thousands of drivers into reckless loans and extracted hundreds of millions of dollars before the market collapsed.”).

32. *Id.*

33. *Id.* (“At least eight drivers have committed suicide, including three medallion owners with overwhelming loans.”).

34. *Infra* Part I.E.

35. *Infra* Part II.

agreement that will significantly reduce monthly payments and debt totals for many medallion owners.³⁶ However, more steps are still necessary.

In examining the best ways to assist drivers with taxi medallions, this Note will begin with background about the City's taxi system, medallions, and the current medallion debt crisis in Part I. In Part II, this Note will summarize the legal arguments that medallion owners have unsuccessfully raised in efforts to receive monetary damages and other relief. The opportunities for relief through litigation are now severely diminished. Part III of this Note will describe an agreement that the City adopted in 2021 to assist some taxi medallion owners. Then, it will argue that additional local, state, and federal actions are still needed to adequately support medallion owners. This Part will also argue that the unique circumstances of the medallion's downfall warrant robust assistance for medallion owners.

I. How the Taxi Medallion Debt Crisis Emerged

A. The Early History of Taxi Medallions

New York City created the taxi medallion in response to a dire situation.³⁷ Prior to 1935, taxis in the City were not regulated, and rival, unregulated companies competed for fares.³⁸ When the Great Depression

36. *Mayor, Senator Schumer, NY Taxi Workers Alliance, and Marblegate Asset Management Announce Agreement to Supplement Medallion Relief Program with City Backstop*, CITY OF N.Y. (Nov. 3, 2021) [hereinafter *Medallion Relief Agreement*], <https://www1.nyc.gov/office-of-the-mayor/news/739-21/mayor-senator-schumer-ny-taxi-workers-alliance-marblegate-asset-management-announce> [https://perma.cc/TC8V-WEMS].

37. *Regulation and Prosperity: 1935–1960*, N.Y.C. TAXI & LIMOUSINE COMM'N, https://www.nyc.gov/html/media/totweb/taxioftomorrow_history_regulationandprosperity.html [https://perma.cc/X6M8-VU2W]. The automobile radically and quickly transformed the City's streets in the early 20th century. For decades, horse-drawn hansom cabs were available for-hire when individuals needed to travel in the City. When cars took to the streets, there were initially few regulations. By the 1930s, thousands of taxis roamed the streets, each offering different services and charging different fares. Passengers and drivers alike needed more regulatory protection. The Bowery Boys Podcast, *A History of the New York Taxi Cab*, at 38:40, THE BOWERY BOYS: N.Y.C. HIST. (Sept. 4, 2015), <https://www.boweryboyshistory.com/2015/09/taxi-a-history-of-the-new-york-taxi-cab.html> [https://perma.cc/G7VV-FH5G] (“During the Great Depression, cab drivers fought against plunging fares and even waged a strike in Times Square. In 1937, Mayor Fiorello La Guardia debuted the medallion system as a way to keep the streets regulated.”).

38. *Regulation and Prosperity: 1935–1960*, *supra* note 37.

hit, demand for taxis plummeted, forcing many companies out of business.³⁹ Those companies that remained in business were undercut by unlicensed “wildcat” drivers who drastically lowered fees to attract customers.⁴⁰ Frustrated taxi drivers protested and in 1934, many drivers went on strike.⁴¹ In response, Mayor Fiorello La Guardia and the City’s Board of Aldermen enacted the Haas Act in 1937.⁴² This Act created the taxi medallion licensing system, reducing the supply of taxis to a level in line with the demand for rides.⁴³ The intent of the Act was to “ensur[e] that those who sought to make a living driving—in most cases new immigrants with no other support structure in their new country—could do so with some protection.”⁴⁴

By 1950, just thirteen years later, the price of a medallion had increased from \$10 to \$5,000.⁴⁵ Much of this price increase could be attributed to the fact that the Haas Act did not prohibit medallion sales on the open market.⁴⁶ Thus, while some medallion owners continued to purchase their medallions from the City directly, many acquired their

39. *Id.* The City was tremendously impacted by the Great Depression. As many as one-third of New Yorkers were unemployed. Many New Yorkers experienced food instability and homelessness during this era. Pauline Toole, *Unemployment in the Great Depression*, N.Y.C. DEPT. OF RECS. (Oct. 9, 2020), <https://www.archives.nyc/blog/2020/10/9/9ovdpgn8lc5zxcild0ooltvzmfwx22> [<https://perma.cc/CD4P-N7EG>].

40. *Regulation and Prosperity: 1935–1960*, *supra* note 37.

41. *Id.* These strikes sometimes became destructive. Some historians have referred to the 1934 strikes as “The Taxi Riots of 1934.” During these strikes, some protesters sought scabs and damaged their cars, breaking windows or pulling off doors. Despite the property damage that these strikes caused, Mayor Fiorello La Guardia repeatedly affirmed that drivers had First Amendment rights and took preventive measures to limit police violence against the strikers. The protests continued on and off for months. Janos Marton, *Today in NYC History: The Taxi Riots of 1934 Start February 5, 1934*, UNTAPPED N.Y. (Feb. 5, 2015), <https://untappedcities.com/2015/02/05/today-in-nyc-history-the-taxi-riots-of-1934-start-february-5-1934/> [<https://perma.cc/VR8E-QUG4>].

42. *Regulation and Prosperity: 1935–1960*, *supra* note 37; Marton, *supra* note 41.

43. *Regulation and Prosperity: 1935–1960*, *supra* note 37. Ensuring that the supply of and demand for taxis were similar was the goal of the Haas Act. While it was largely successful, the number of outstanding medallions dropped by about 5,000 just a few years after the Haas Act was enacted. Lawrence Van Gelder, *Medallion Limits Stem From the 30’s*, N.Y. TIMES (May 11, 1996), <https://www.nytimes.com/1996/05/11/nyregion/medallion-limits-stem-from-the-30-s.html> [<https://perma.cc/9WHP-TNRJ>].

44. BIJU MATHEW, TAXI!: CABS AND CAPITALISM IN NEW YORK CITY 52 (2005).

45. *Regulation and Prosperity: 1935–1960*, *supra* note 37.

46. MATHEW, *supra* note 44, at 53. The medallion was treated increasingly as private property rather than a shared public good. Corporations, in particular, profited through trading medallions. Medallion trading in private markets fueled demand and increased prices beyond what the City had initially charged. *Id.*

medallions through private trades or auctions.⁴⁷ “[A]spects of the modern-day taxi industry began to emerge” in this era as well.⁴⁸ Drivers shed an image of disdain and distrust from New Yorkers and garnered new respect from the public as trustworthy counselors.⁴⁹ And in the late 1960’s, City lawmakers required that all taxis be painted in their now iconic yellow color.⁵⁰

B. The Taxi & Limousine Commission and 20th Century Developments

In 1971, lawmakers created the NYC Taxi & Limousine Commission (“TLC”),⁵¹ responsible for “licensing and regulating New York City’s Medallion (Yellow) taxi cabs, for-hire vehicles (community-based liveries, black cars and luxury limousines), commuter vans, and paratransit vehicles.”⁵² Today, the TLC regulates 200,000 licenses, conducts vehicle inspections, and develops administrative rules much like other City agencies.⁵³

In 1979, the TLC made the most substantial regulatory change to the City’s taxi industry since the Haas Act when it began permitting the daily leasing of cabs.⁵⁴ This change authorized taxi fleet owners to lease cars for a guaranteed daily income while passing off gas and overhead

47. *Id.*

48. *Regulation and Prosperity: 1935–1960, supra* note 37.

49. *Id.*

50. *Id.* While yellow taxis are perhaps the most iconic vehicle on the City’s streets, green taxis also have existed since the early 2010s. Green taxis are only permitted to pick up passengers in the City’s outer boroughs (Queens, Brooklyn, the Bronx, Staten Island) and in northern Manhattan. *Green Cab*, N.Y.C. TAXI & LIMOUSINE COMM’N, <https://www1.nyc.gov/site/tlc/businesses/green-cab.page> [https://perma.cc/26FE-DMXW]; James Barron, *Where Yellow Cabs Didn’t Go, Green Cabs Were Supposed to Thrive. Then Came Uber.*, N.Y. TIMES (Sept. 3, 2018), <https://www.nytimes.com/2018/09/03/nyregion/green-cabs-yellow-uber.html> [https://perma.cc/W3TP-MT7D].

51. *The Modern Taxi: 1960–2009*, N.Y.C. TAXI & LIMOUSINE COMM’N, https://www.nyc.gov/html/media/totweb/taxioftomorrow_history_themoderntaxi.html [https://perma.cc/SZL3-KRF6].

52. *About TLC*, N.Y.C. TAXI & LIMOUSINE COMM’N, <https://www1.nyc.gov/site/tlc/about/about-tlc.page> [https://perma.cc/E6XP-5KCN].

53. *Id.* The TLC’s budget is approximately \$54 million and the agency employs several hundred inspectors and other workers. *Report of the Finance Division on the Fiscal 2021 Preliminary Plan and the Fiscal 2020 Preliminary Mayor’s Management Report for the Taxi and Limousine Commission*, COUNCIL OF THE CITY OF N.Y. 2, 5 (Mar. 9, 2020), <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2020/03/156-TLC.pdf> [https://perma.cc/ALC7-42EU].

54. GRAHAM RUSSELL GAO HODGES, TAXI!: A SOCIAL HISTORY OF THE NEW YORK CITY CABDRIVER 147 (2007).

expenses to drivers.⁵⁵ By the end of the century, the dynamic had shifted dramatically, and less than 30% of cabdrivers actually owned their own medallions.⁵⁶ During this period, other changes also transformed the taxi industry. For example, drivers became classified as independent contractors.⁵⁷ Leasing also introduced medallion brokers into the system, and these brokers were well-positioned to profit from medallion sales.⁵⁸

Throughout this era, drivers complained of low fares while the much smaller number of fleet-managing medallion owners raked in profits.⁵⁹ Fares remained so low that it often was cheaper for small groups of passengers to take a taxi than a bus or the subway.⁶⁰ Simultaneously, the popularity of the leasing system nudged the price of medallions up to around \$70,000 by 1980.⁶¹ While some medallion fleet owners earned a great and consistent profit, drivers faced constant uncertainty about their income, and turnover permeated the business.⁶²

By 1990, the market rate for medallions had increased to around \$125,000.⁶³ The price remained relatively stable over the next fifteen years,

55. *Id.*

56. *Id.* at 150. Many other changes caused significant shifts in the City's taxi industry in the last few decades of the 20th century. Cabs became more heavy-duty and larger. Vehicles became more environmentally friendly and were better able to accommodate persons with disabilities. *The Modern Taxi: 1960–2009*, *supra* note 51.

57. HODGES, *supra* note 54, at 148. This Note will not delve into the issues associated with drivers' designation as independent contractors. However, this designation limits drivers' bargaining ability and hinders access to other workplace rights and protections. Dana Rubinstein, *Demands Mount for New York State to Extend Benefits to Gig-Economy Workers*, POLITICO (Mar. 18, 2020, 2:18 PM), <https://www.politico.com/states/new-york/albany/story/2020/03/18/demands-mount-for-new-york-state-to-extend-benefits-to-gig-economy-workers-1267676> [<https://perma.cc/7TKW-T45S>].

58. HODGES, *supra* note 54, at 149. This Note will not extensively cover the role that brokers have played, but their role has been significant. Essentially, the broker was and remains a middleman between medallion owners and drivers leasing the medallion or physical cab. The introduction of brokers to the market led drivers to be vulnerable to exploitation on several fronts, including new fees or overtly fraudulent accounting practices. *Id.*

59. *Id.* at 153–54. One of the TLC's roles is to set the fare rates for taxis in the City. *Id.*

60. *Id.* In 1979, the subway fare was only 50 cents. Diane Pham, *All the MTA Fare Hikes of the Last 100 Years*, 6SQFT (Mar. 23, 2015), <https://www.6sqft.com/all-the-mta-fare-hikes-over-the-last-100-years-plus-a-video-of-when-it-cost-just-15-cents/> [<https://perma.cc/XJ7E-9KPW>].

61. HODGES, *supra* note 54, at 154.

62. *Id.* at 154, 160.

63. Calvin Sims, *Taxi Commission Investigates Medallion Pricing and Loans*, N.Y. TIMES (Oct. 13, 1990), <https://www.nytimes.com/1990/10/13/nyregion/taxi-commission-investigates-medallion-pricing-and-loans.html> [<https://perma.cc/6LPA-HNF9>].

rising to a little over \$200,000 by 2004.⁶⁴ It was in this era that the TLC first began to investigate complaints that lenders and brokers were ripping off medallion purchasers.⁶⁵ At that time, some drivers were reporting losing upwards of \$100,000 after failing to make payments on their loan.⁶⁶ Some analysts referred to the medallion system as a “villain,” but not because of the quantity of debt that medallion owners were taking on.⁶⁷ Rather, the concern related to leasing and the notion that “the medallion system artificially allows taxi owners to earn enormous profits, which inflate the value of medallion licenses while leaving drivers with crumbs and the public with lousy service.”⁶⁸

The premise of the medallion system remains roughly in line with the system created in 1937 by the Haas Act. Today, medallion taxis roaming the streets of the City must be yellow.⁶⁹ With limited exceptions, medallion taxis can only pick up riders through street hails, and any efforts to expand the ways in which medallion taxis find their riders have largely failed.⁷⁰ The medallions remain a physical piece of metal attached to the hood of the taxi.⁷¹ The leasing system also persists today and a minority of the City’s drivers actually own their own medallions.⁷² Garage owners will lend their medallion taxis to drivers for time-limited shifts and a fee.⁷³ Although this allows individuals who cannot otherwise afford a medallion to earn income

64. Mark J. Perry, *Chart of the Day: NYC Taxi Medallion Prices*, AM. ENTER. INST. (May 3, 2014), <https://www.aei.org/carpe-diem/chart-of-the-day-nyc-taxi-medallion-prices/> [<https://perma.cc/Z44B-4PW4>]; see also, *US Inflation Calculator*, <https://www.usinflationcalculator.com/> [<https://perma.cc/6YP4-BKMS>] (calculating that if the medallion value had remained consistent with inflation from 1990 to 2004, it would have been worth approximately \$180,000 in 2004).

65. Sims, *supra* note 63.

66. *Id.*

67. Bruce Schaller & Gorman Gilbert, *Villain or Boogeyman? New York’s Taxi Medallion System*, ENO TRANSP. FOUND., INC. (1996), <http://www.schallerconsult.com/taxi/taxi2.htm#introduction> [<https://perma.cc/QS8R-KHX6>].

68. *Id.*

69. N.Y.C. ADMIN. CODE § 19-514(a), (f) (2020).

70. Annie McDonough, *City to Propose Universal Taxi App Amid Crisis*, CITY & STATE N.Y. (Jan. 29, 2020), <https://www.cityandstateny.com/articles/policy/technology/city-propose-universal-taxi-app-amid-medallion-crisis.html> [<https://perma.cc/TW5R-LRCE>] (“Apps like Hailo, Arro, and Curb have offered their own taxi ride-hail options, but none have caught on to compete with Uber and Lyft.”).

71. Kelly Phillips Erb, *New York’s Taxi King Pleads Guilty to Tax Fraud*, FORBES (May 22, 2018), <https://www.forbes.com/sites/kellyphillipserb/2018/05/22/new-yorks-taxi-king-pleads-guilty-to-tax-fraud> [<https://perma.cc/8WBT-FKLH>] (“The name refers to the metal plate that’s physically affixed to cabs, and in some areas, like New York and Philadelphia, taxis may not operate without them.”).

72. Interview with Alix, *supra* note 1.

73. *Id.*

from driving a taxi, drivers have to earn back the rental fee—which is usually around \$50 a shift—to turn a profit.⁷⁴ During the COVID-19 pandemic, this has often been impossible.⁷⁵

Several other American cities have taxi medallion regulations and histories that resemble New York City's.⁷⁶ Many of those cities, including Philadelphia and Boston, have also dealt with medallion price crashes in recent years.⁷⁷ The same type of crisis has even afflicted international regions with similar taxi medallion systems, such as Victoria, Australia.⁷⁸ Although these cities' medallion owners face some of the same challenging issues, this Note will primarily focus on the medallion debt crisis as it relates to New York City and its taxi workers.

C. The Medallion Price Crash: Uber Comes to New York

In 2013, the TLC officially granted Uber permission to operate in New York City.⁷⁹ Uber is a rideshare company that has been “giving riders a way to get from point A to point B” via rides hailed from a smartphone

74. *Id.*

75. *Id.* For example, one of Alix's friends accepted a shift in fall 2020. After working for around half of his ten-hour shift, Alix's friend had picked up very few passengers. He had not yet earned enough to make up the leasing fee or the gas expenses for the day. Nevertheless, he returned the car to the garage in fear that he would lose even more money in gas expenses if he completed the rest of the shift. *Id.*

76. Jeff Horwitz & Chris Cumming, *Taken for a Ride*, SLATE (June 6, 2012), <https://slate.com/business/2012/06/taxi-medallions-how-new-yorks-terrible-taxi-system-makes-fares-higher-and-drivers-poorer.html> [<https://perma.cc/AS5V-ZBD9>].

77. Nick Sibilla, *Philadelphia Taxis Don't Get Bailout, Must Compete with Uber, Federal Judge Rules*, INST. FOR JUST. (Feb. 2, 2018), <https://ij.org/philadelphia-taxis-dont-get-bailout-must-compete-uber-federal-judge-rules/> [<https://perma.cc/37E5-CGQC>]; Jordan Graham, *Competition Hacks Taxi Business*, BOS. HERALD (Oct. 21, 2018), <https://www.bostonherald.com/2018/10/21/competition-hacks-taxi-business/> [<https://perma.cc/6QFQ-SRDQ>].

78. Alex Mann, *The Human Toll of Falling Taxi Licence Values*, ABC NEWS (Aug. 5, 2018), <https://www.abc.net.au/news/2018-08-05/falling-taxi-licence-values-sparks-suicide-fears/10060558?nw=0> [<https://perma.cc/G2RQ-78YL>].

79. *UberTaxi Returns to NYC*, UBER BLOG (Apr. 30, 2013), <https://www.uber.com/blog/new-york-city/ubertaxi-returns-to-nyc> [<https://perma.cc/D755-A6SQ>]; Technically, Uber first offered rides in 2011. *Uber NYC Has Launched*, UBER BLOG (May 4, 2011), <https://www.uber.com/blog/new-york-city/uber-nyc-launches-service> [<https://perma.cc/97DQ-ZGB2>]. However, questions surrounding its legality in New York prevented larger scale integration until 2013. Matt Flegenheimer & Brian X. Chen, *As a Taxi-Hailing App Comes to New York, Its Legality Is Questioned*, N.Y. TIMES (Sept. 4, 2012), <https://www.nytimes.com/2012/09/05/nyregion/as-ubers-taxi-hailing-app-comes-to-new-york-its-legality-is-questioned.html> [<https://perma.cc/RW5M-ERMA>].

application since its founding in 2009.⁸⁰ By 2015, just two years after its full entry into the City's market, millions of riders were ditching the yellow taxi in favor of Uber.⁸¹ According to data retrieved from the TLC via a Freedom of Information Act request, there were two million Uber rides between April and June 2014, but eight million Uber rides between April and June 2015.⁸² There were 42 million yellow cab rides during that period in 2014, but only 38 million in 2015.⁸³ In just one year, medallion owners lost nearly 10% of their fares to Uber. This was only the start of a devastating trend.

In 2014, the TLC permitted Uber-competitor, Lyft, to begin service in the City.⁸⁴ In the coming months and years, several other rideshare companies, including Via and Arro, also entered the City's market.⁸⁵ All of these trips through rideshare services came at the expense of yellow taxi drivers, who provided an average of nearly 500,000 rides per day at the beginning of 2012, but only provided around 350,000 daily rides at the start of 2016.⁸⁶ Even though demand for rides from medallion taxis plummeted, the TLC actually auctioned an additional 350 medallions during this period.⁸⁷

This crash in ridership soon led to a parallel crash in medallion prices. In 2014, just as Uber was beginning to gain traction in the market, the price of a medallion averaged over \$1 million.⁸⁸ By April 2015, only a year later, Uber had gained so much ground that interest in medallions

80. *About Us*, UBER, <https://www.uber.com/us/en/about/> [<https://perma.cc/X4AX-BA9D>].

81. Reuben Fischer-Baum & Carl Bialik, *Uber Is Taking Millions of Manhattan Rides Away From Taxis*, FIVETHIRTYEIGHT (Oct. 13, 2015), <https://fivethirtyeight.com/features/uber-is-taking-millions-of-manhattan-rides-away-from-taxis/> [<https://perma.cc/92SY-25A3>].

82. *Id.*

83. *Id.*

84. Ben Brody, *Lyft Gets the Green Light in New York City*, CNN MONEY (July 25, 2014), <https://money.cnn.com/2014/07/25/news/lyft-new-york-launch/index.html> [<https://perma.cc/VS4B-S329>].

85. Ariana Arghandewal, *7 Rideshare Apps You Should Be Using in New York City*, POINTCHASER (Dec. 19, 2019), <https://www.pointchaser.com/new-york-city-rideshare-apps/> [<https://perma.cc/77AN-3VYJ>].

86. *Taxi and Ridehailing Usage in New York City*, TODD W. SCHNEIDER, <https://toddschneider.com/dashboards/nyc-taxi-ridehailing-uber-lyft-data/> [<https://perma.cc/UBE7-8HX6>].

87. Winnie Hu, *Taxi Medallions, Once a Safe Investment, Now Drag Owners Into Debt*, N.Y. TIMES (Sept. 10, 2017), <https://www.nytimes.com/2017/09/10/nyregion/new-york-taxi-medallions-uber.html> [<https://perma.cc/5B22-7HH3>] (“The city controls the number of medallions—currently capped at 13,587 The last time there was an auction for medallions was when the city sold 350 new medallions in 2014 at the height of the market, generating \$359 million in revenue.”).

88. Perry, *supra* note 64.

plunged, and the price for a medallion dropped to approximately \$600,000.⁸⁹ By 2018, as rideshare apps became increasingly popular among consumers, medallion prices dropped to \$160,000.⁹⁰ Simultaneously, “New York taxi drivers, on average, saw a \$10,000 reduction in their yearly earnings between 2013 and 2016”⁹¹ The taxi medallions, once a safe investment, now dragged their owners into devastating financial predicaments.⁹²

How could the TLC let new competitors have access to the market when the very premise of the taxi medallion system was to provide medallion owners with exclusive access to the roads?⁹³ The TLC and courts have construed this notion of exclusivity more narrowly in recent years.⁹⁴ The City Administrative Code states that “[n]o motor vehicle other than a duly licensed taxicab shall be permitted to accept hails from passengers in the street.”⁹⁵ But in January of 2015, the TLC released new “E-Hail Rules” which allowed passengers to arrange for their immediate transportation via electronic requests made on smartphone applications.⁹⁶ According to medallion owners, however, e-hails are equivalent to the traditional hail.⁹⁷ Although passengers using rideshare apps do not physically stick out their hand to hail their Uber or Lyft car, and instead press a request button on their phone, the results of each action—getting a

89. Ariel Stulberg, *This Chart Shows How Uber Is Devastating New York's Taxi Business*, VOX (Dec. 26, 2015), <https://www.vox.com/2015/12/26/10647418/uber-new-york-taxi-medallions> [<https://perma.cc/AL86-Y7RJ>].

90. Sam Harnett, *Cities Made Millions Selling Taxi Medallions, Now Drivers Are Paying the Price*, NAT'L PUB. RADIO (Oct. 15, 2018), <https://www.npr.org/2018/10/15/656595597/cities-made-millions-selling-taxi-medallions-now-drivers-are-paying-the-price> [<https://perma.cc/JV48-692F>].

91. Philip Guelpa, *New York Taxi Drivers Driven to Penury and Suicide*, WSWs (June 19, 2019), <https://www.wsws.org/en/articles/2019/06/19/taxi-j19.html> [<https://perma.cc/GQ78-MCPX>].

92. Hu, *supra* note 87.

93. Clayton Guse & Noah Goldberg, *NYC Taxi Drivers File Class Action Lawsuit Against City, Claiming Medallion Prices Overinflated*, N.Y. DAILY NEWS (Apr. 6, 2021), <https://www.nydailynews.com/new-york/ny-taxi-drivers-lawsuit-class-action-medallion-inflated-prices-20210406-jkaounr7lja7tcvgxoxlrpjea-story.html> [<https://perma.cc/BL3W-5KL8>].

94. *Melrose Credit Union v. City of New York*, 247 F. Supp. 3d 356, 360 (S.D.N.Y. 2017) (holding that plaintiff medallion loan lenders and owners did not state equal protection or due process claims and that their takings claim was not ripe).

95. N.Y.C. Admin. Code § 19-504(a)(1) (2017).

96. New York City Taxi and Limousine Commission, E-Hail Rules (2015), https://www1.nyc.gov/assets/tlc/downloads/pdf/newly_passed_rules_ehail.pdf [<https://perma.cc/JC2A-NWPB>].

97. Katrina Wyman, *Taxi Regulation in the Age of Uber*, 20 N.Y.U. J. LEGIS. & PUB. POL'Y 1, 11 n.26 (2017).

ride—seem strikingly similar. Uber and Lyft drivers cannot legally accept passengers who only raise their hand up on the street,⁹⁸ but they have not needed this method to acquire riders. The TLC ignored the similarities between street hails and e-hails, and by characterizing the two in different ways, handed away medallion owners’ right to exclusivity in the market.

D. Fraud in the Medallion Market

While the TLC’s unexpected abandonment of its promise of exclusivity for medallion owners played a major role in the demise of medallion price stability, overt fraud drove prices artificially high in the prior decades. *New York Times* reporters investigated this issue in 2019 with extremely troubling findings.⁹⁹ Rather than simply accept that Uber and Lyft caused a price crash, the *New York Times* argued that fraud had driven medallion prices artificially higher and higher for years.¹⁰⁰ During the period before rideshare apps entered the market, “[a] group of industry leaders enriched themselves by artificially inflating medallion prices. They encouraged medallion buyers to borrow as much as possible and . . . required them to pay hefty fees, forfeit their legal rights and give up most of their monthly incomes.”¹⁰¹

Starting in Mayor Rudy Giuliani’s administration and continuing under Mayor Michael Bloomberg’s watch, the City increasingly turned to the TLC to help fill massive budget shortfalls.¹⁰² The City opted to sell 1,000 new medallions in the mid-2000s and advertised the purchase of a medallion as a “once-in-a-lifetime opportunity.”¹⁰³ Bids exceeded the City’s expectations, reaching \$300,000, so the City decided to continue holding auctions.¹⁰⁴ As prices for medallions ticked upwards, the small lenders who

98. Dan Rivoli, *Uber Cars Rack Up Violations for Illegal Street Hails as NYC Proposes Crackdown*, N.Y. DAILY NEWS (Apr. 6, 2016), <https://www.nydailynews.com/new-york/nyc-proposes-crackdown-uber-cabs-picking-street-fares-article-1.2591233> [<https://perma.cc/P95T-KPT9>].

99. Brian M. Rosenthal, *How We Investigated the New York Taxi Medallion Bubble*, N.Y. TIMES (May 22, 2019), <https://www.nytimes.com/2019/05/22/reader-center/taxi-medallion-investigation.html> [<https://perma.cc/C5WW-8RKP>].

100. *Id.* (“Why had anybody ever paid \$1 million for the right to the grueling job of being a cabby?”).

101. Brian M. Rosenthal, *As Thousands of Taxi Drivers Were Trapped in Loans, Top Officials Counted the Money*, N.Y. TIMES (May 19, 2019), <https://www.nytimes.com/2019/05/19/nyregion/taxi-medallions.html> [<https://perma.cc/3L6R-L4PS>].

102. *Id.* (“At the time, [Bloomberg] . . . had a \$3.8 billion hole in his budget.”).

103. *Id.*

104. *Id.*; Michael Luo, *Bids Exceed \$300,000 in Medallion Auction* [sic], N.Y. TIMES (Apr. 24, 2004), <https://www.nytimes.com/2004/04/24/nyregion/bids-exceed-300000-in-medallion-auction.html> [<https://perma.cc/85L2-VPK4>] (“[O]ver the next three

had traditionally financed medallion loans were gradually replaced by larger lenders who had received special exemptions from the National Credit Union Association (“NCUA”).¹⁰⁵ The NCUA had exempted medallion loans from rules, such as requiring a 20% down payment, and allowed these larger lenders to offer more profitable loans.¹⁰⁶ Simultaneously, the TLC reduced oversight, ceasing its review process that assessed how medallion purchasers came up with the requisite funds.¹⁰⁷

By 2012, around the time Uber was entering the market, NCUA inspectors “routinely” found that credit unions were violating lending rules, but chose not to penalize medallion lenders.¹⁰⁸ Both the City and New York State knew this was an issue, as by 2014, NCUA officials raised concern about the 455% increase in medallion prices since 2001 with their higher ups.¹⁰⁹ Despite the warning signs that, even before the rideshare industry took off, the medallion market had become a bubble, New York officials failed to act.¹¹⁰ When City officials, including Mayor Bill de Blasio, have tried to help in more recent years, these officials have neglected the nature of the medallion lending practices and focused instead on capping rideshare vehicles or instituting other reforms.¹¹¹ If there had never been a bubble, the stakes would not have been so high.

E. The Consequences: Economic and Emotional Distress

Hardworking taxi drivers, primarily immigrants, have borne the brunt of the government’s regulatory failures.¹¹² These consequences are not abstract or trivial. The economic distress of the medallion price crash has led to serious mental health concerns, and COVID-19 has also

years, 900 medallions will be auctioned off as part of the largest expansion of the taxi fleet since the Depression.”).

105. Rosenthal, *supra* note 101 (“The N.C.U.A. chose not to penalize medallion lenders or impose extra oversight.”).

106. *Id.*

107. *Id.* (“For years, [TLC] had made medallion purchasers file forms describing how they came up with the money, including details on all loans But officials never analyzed the forms filed by buyers, and in the 2000s, they stopped requiring the annual disclosures altogether.”).

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.* It is important to note that “Taxi industry veterans said the cap did not address the cause of the crisis: the lending practices.” *Id.*

112. *Id.* (“Medallion prices rose above \$1 million before crashing in late 2014, wiping out the futures of thousands of immigrant drivers and creating a crisis that has continued to ravage the industry today.”).

exacerbated the already dire situation.¹¹³ These burdens are falling on some of society's most vulnerable.

The pain and uncertainty caused by this economic crisis has catalyzed multiple medallion owner suicides.¹¹⁴ In 2018, three medallion owners committed suicide.¹¹⁵ All three of these drivers had expressed serious worries about paying off their medallion debt.¹¹⁶ Five other drivers working for Uber or livery services also committed suicide in 2018.¹¹⁷ Some had raised concerns about economic uncertainty stemming from long work and low wages, even if they did not personally have medallion loans.¹¹⁸

On top of the existing crisis, taxi medallion owners have been particularly impacted by the COVID-19 pandemic and its severe effect on the City.¹¹⁹ Over 11,000 yellow taxis were on the City's streets in January 2020, but by April, the number plummeted to only 2,193.¹²⁰ Those who took the risk of working struggled to find any fares, sometimes not even earning \$10 an hour.¹²¹ Drivers in this period even waited as much as six hours to find a fare from John F. Kennedy International Airport, one of the world's largest airports.¹²² Many drivers did not want to risk exposure to the novel coronavirus and stopped driving shortly after the pandemic first hit the

113. Interview with Alix, *supra* note 1; Dushyant Naresh, 'We're on the Brink of Utter Collapse.' *Yellow Cabdrivers in New York Struggle to Stay Alive as the Pandemic Rages on*, CNN (Jan. 9, 2021), <https://www.cnn.com/2021/01/09/us/yellow-taxi-drivers-new-york-covid/index.html> [<https://perma.cc/J4PL-UD99>] ("With ridership down 80–90% since March 2020, drivers count themselves lucky if they are able to snag three passengers a shift.").

114. Emma G. Fitzsimmons, *Why Are Taxi Drivers in New York Killing Themselves?*, N.Y. TIMES (Dec. 2, 2018), <https://www.nytimes.com/2018/12/02/nyregion/taxi-drivers-suicide-nyc.html> [<https://perma.cc/69UT-GNUR>].

115. *Id.*

116. *Id.* Some are concerned that, given the ongoing financial straits of so many medallion owners, more suicides could occur. Interview with Alix, *supra* note 1.

117. Fitzsimmons, *supra* note 114.

118. *Id.*

119. J. David Goodman & William K. Rashbaum, *N.Y.C. Death Toll Soars Past 10,000 in Revised Virus Count*, N.Y. TIMES (Apr. 14, 2020), <https://www.nytimes.com/2020/04/14/nyregion/new-york-coronavirus-deaths.html> [<https://perma.cc/D9SB-PA4S>]; Winnie Hu & Nate Schweber, *Coronavirus Decimates N.Y.C. Taxi Industry: 'The Worst It's Ever Been'*, N.Y. TIMES (Mar. 25, 2020), <https://www.nytimes.com/2020/03/25/nyregion/coronavirus-nyc-taxi-drivers.html> [<https://perma.cc/J9G5-MVKF>].

120. Juan Manuel Benitez, *How the Pandemic Hammered a Yellow Cab Industry Already in Crisis*, SPECTRUM NEWS (Aug. 10, 2020), <https://www.ny1.com/nyc/all-boroughs/news/2020/08/08/nyc-yellow-cabs-taxis-coronavirus-impact-on-drivers> [<https://perma.cc/DMK6-AY53>].

121. *Id.*

122. Hu & Schweber, *supra* note 119.

City.¹²³ Some who took the risk and continued to offer rides unfortunately died from complications of COVID-19, and as of August 2020, at least twenty-eight drivers have died from the coronavirus.¹²⁴ Other drivers contracted the virus and spread it to family members.¹²⁵

Many drivers have struggled with expenses such as rent and groceries throughout the pandemic.¹²⁶ Given the uncertainty of even finding a fare and the serious safety risks associated with sharing an enclosed car with a stranger, some drivers turned to delivering food just to make ends meet.¹²⁷ Some drivers successfully navigated the complicated and overwhelmed bureaucratic system to receive unemployment benefits, but these could only go so far.¹²⁸ Although pandemic and economic conditions in late 2020 improved over the period from March through May, ridership numbers remained far below their typical levels.¹²⁹

Around 90% of taxi drivers are immigrants.¹³⁰ Driving “became an entry level position for immigrants hoping to gain part of an American dream.”¹³¹ The New York Taxi Workers Alliance (“NYTWA”) determined

123. *Id.*

124. Derek M. Norman, *Stuart Cohen, Cabdriver Thirsty for Knowledge, Dies at 73*, N.Y. TIMES (Apr. 15, 2020), <https://www.nytimes.com/2020/04/15/nyregion/stuart-cohen-dead-coronavirus.html> [<https://perma.cc/3AN8-KNAD>]; Annie Correal & Andrew Jacobs, *A Tragedy is Unfolding: Inside New York's Virus Epicenter*, N.Y. TIMES (Aug. 5, 2020), <https://www.nytimes.com/2020/04/09/nyregion/coronavirus-queens-corona-jackson-heights-elmhurst.html> [<https://perma.cc/P7YH-VEQE>].

125. Long, *supra* note 23; Brian M. Rosenthal, *Pandemic Pushes N.Y.C. Cabbies to the Brink: 'I Can't Hold On'*, N.Y. TIMES (Nov. 12, 2020), <https://www.nytimes.com/2020/11/12/nyregion/nyc-taxi-drivers-coronavirus.html> [<https://perma.cc/JTN2-WVGU>] (“In a recent survey by the New York Taxi Workers Alliance, nearly half of drivers said either they or someone in their home had contracted the virus.”).

126. Samira Sadeque, *NYC's Bangladeshi Community Struggles to Cope with Coronavirus*, ALJAZEERA (Apr. 29, 2020), <https://www.aljazeera.com/features/2020/4/29/nycs-bangladeshi-community-struggles-to-cope-with-coronavirus> [<https://perma.cc/ZX5B-6FVT>].

127. Josh Saul, *What Happens When NYC's Taxis Have No Passengers*, BLOOMBERG BUSINESSWEEK (Sept. 12, 2020), <https://www.bloomberg.com/features/2020-nyc-taxi-pandemic-food-delivery/> [<https://perma.cc/JQ8Y-L6AN>] (“I don't have a choice now. I can't stay home. I have a family so I make the delivery so I can make money.”).

128. Interview with Alix, *supra* note 1.

129. *Taxi and Ridehailing Usage in New York City*, *supra* note 86 (demonstrating that in April 2020, yellow taxi rides were down 97% from April 2019. By October 2020, yellow taxi rides were down 77% from October 2019).

130. Pete Donohue, *The World Fare: Cabbies 90% Foreign Born as Immigrants Grab Wheel of Fortune*, N.Y. DAILY NEWS (July 7, 2004), <https://www.nydailynews.com/archives/news/world-fare-cabbies-90-foreign-born-immigrants-grab-wheel-fortune-article-1.630371> [<https://perma.cc/2RV8-FXSH>].

131. HODGES, *supra* note 54, at 147.

that 44% of these largely immigrant workers earn between \$20,000 and \$39,000 per year (in a non-pandemic year).¹³² In the best of times, taxi drivers work long hours for insufficient wages. It is virtually impossible to afford monthly loan payments, which can be thousands of dollars with interest rates as high as 15%.¹³³ Furthermore, now that medallion prices have crashed, drivers cannot expect a windfall from selling their medallion when they decide to retire from the business in the future.¹³⁴

F. The Efforts to Provide Relief to Drivers

The injustice of the City's actions towards a hardworking immigrant community, to break the promise of medallion exclusivity and to permit overt fraud, has led drivers to file lawsuits against the City in hopes of obtaining some relief.¹³⁵ For example, in a federal case heard by the Second Circuit in which the medallion owner-plaintiffs lost on all claims, "[p]laintiffs alleged that defendants' regulatory scheme applicable to the ground transportation market in New York City violated their equal protection and due process rights and that they suffered a taking."¹³⁶ Similar efforts have failed in other jurisdictions as well.¹³⁷ Because remediation now seems impossible through the courts, policy solutions are necessary. Part III of this Note will discuss the City government's efforts thus far and advocate for additional policy solutions.

Despite litigation failures, drivers have continued to advocate for relief. Organized taxi workers have demanded "Debt Forgiveness Now!" particularly during 2020.¹³⁸ In September 2020, drivers shut down the

132. Emma G. Fitzsimmons, *Taxi Drivers in New York Are Struggling. So Are Uber Drivers*, N.Y. TIMES (June 17, 2018), <https://www.nytimes.com/2018/06/17/nyregion/uber-taxi-drivers-struggle.html> [<https://perma.cc/T6LG-45F5>].

133. Rosenthal, *supra* note 27.

134. Interview with Alix, *supra* note 1. Before the medallion crash, Alix had hoped to sell his medallion and retire before turning 70. *Id.*

135. *Infra* Part II.

136. *Progressive Credit Union v. City of New York*, 889 F.3d 40, 44 (2d Cir. 2018) (holding that medallion owners' equal protection and due process claims failed because medallion taxis and for-hire vehicles were not prima facie similar and because there was no evidence of insufficient procedural protections for medallion owners).

137. *Infra* Part II.

138. Clayton Guse, *NYC Taxi Drivers Drowning in Debt Shut Down Brooklyn Bridge in Desperate Plea to de Blasio*, N.Y. DAILY NEWS (Sept. 17, 2020), <https://www.nydailynews.com/coronavirus/ny-coronavirus-taxi-driver-medallion-debt-laon-payments-20200917-dk3pmwqnbti63sp2ddpq5ju-story.html> [<https://perma.cc/6ZSP-8SWK>].

Brooklyn Bridge, blocking all traffic, to elevate their requests.¹³⁹ Drivers also testified at a City Council Committee on Transportation Hearing on October 16, 2020.¹⁴⁰

The NYTWA, an association with 21,000 driver-members, has also played a significant role in elevating the profile of the medallion debt crisis and demanding action.¹⁴¹ On October 29, 2020, the NYTWA coordinated a taxi takeover of Times Square and Madison Avenue.¹⁴² The NYTWA also developed a full legislative proposal for relief to medallion owners.¹⁴³ The NYTWA's consistent advocacy has won medallion owners some victories.

In 2018, the City Council voted to temporarily halt new licenses for rideshare services, effectively capping the number of Uber and Lyft cars permitted on New York's streets.¹⁴⁴ The following year, the TLC voted to extend the cap.¹⁴⁵ Although this does not directly alleviate the medallion owners' financial woes, it helps to ensure that medallion owners can pick up more fares and it limits the further expansion of Uber and other ride-sharing services.¹⁴⁶

139. *Id.*; NY Taxi Workers (@NYTWA), TWITTER (Sept. 17, 2020, 12:49 PM), <https://twitter.com/NYTWA/status/1306636414910595073> [last visited Sept. 30, 2021] (video of the closure of the Brooklyn Bridge by taxi workers).

140. *Oversight: TLC's Response to COVID-19 and Driver Assistance Programs: Hearing Before the N.Y.C. Commission on Transportation* (Oct. 16, 2020), <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=809662&GUID=16BFA190-1FAA-416F-8D00-A2457587E3BB&Options=info|&Search=> [<https://perma.cc/D6EU-KBHH>].

141. N.Y. TAXI WORKERS ALL., <http://www.nytwa.org/> [<https://perma.cc/WUB6-66NG>].

142. *Times Square Takeover/Madison Ave Shutdown*, N.Y. TAXI WORKERS ALL., <http://www.nytwa.org/home/2020/10/29/day-of-action> [<https://perma.cc/APF8-JJSZ>].

143. *NYTWA Proposal and Analysis of Risk to NYC Backstop for Medallion Debt Forgiveness* (2020), <https://files.constantcontact.com/be10d1f8001/50a52266-ddd0-40fc-93b8-8cdaf4c021d3.pdf> [<https://perma.cc/FU9G-2TAP>].

144. Emma G. Fitzsimmons, *Uber Hit with Cap as New York City Takes Lead in Crackdown*, N.Y. TIMES (Aug. 8, 2018), <https://www.nytimes.com/2018/08/08/nyregion/uber-vote-city-council-cap.html> [<https://perma.cc/B9PS-L6M6>] (“[T]he number of for-hire vehicles in the city [in 2018] has surged to more than 100,000 vehicles, from about 63,000 in 2015.”).

145. Christine Fisher, *NYC Extends Its Cap on Uber and Lyft Vehicles*, ENGADGET (Aug. 7, 2019), <https://www.engadget.com/2019-08-07-nyc-uber-lyft-rideshare-vehicle-cap.html> [<https://perma.cc/KF7M-Q7QR>].

146. *Id.* Shortly after the City restricted new licenses, it enacted congestion pricing. Congestion pricing is an ongoing effort to reduce traffic in Manhattan by requiring all cars, including taxis, to pay a toll when they enter the busiest areas of the City. These congestion surcharges impacted taxis first. When medallion taxis drive in a certain area (anywhere south of 96th Street in Manhattan) the passenger must pay a

In March 2021, Mayor Bill de Blasio announced a plan to divert \$65 million in federal stimulus funds to taxi medallion owners.¹⁴⁷ This plan, the Taxi Medallion Owner-Driver Relief Fund, “will provide up to \$29,000 in no-interest loans to each of the estimated 3,000 drivers who purchased their own medallion.”¹⁴⁸ Medallion lenders like Marblegate praised the plan.¹⁴⁹ However, many medallion owners and some politicians condemned the plan as inadequate.¹⁵⁰ The head of the NYTWA lamented that this plan provides cash to lenders while forcing drivers to bear the risk.¹⁵¹ Some drivers continued their protests and argued that this plan was completely insufficient.¹⁵² These protests were successful, as by November 2021, de Blasio announced that the City had reached a major agreement to reduce debt and monthly payments for many medallion owners.¹⁵³

Other smaller steps have been made to assist drivers as well. Although far short of bailing out medallion owners, the TLC created its Owner/Driver Resource Center to assist drivers seeking financial counseling, legal assistance, or other services.¹⁵⁴ Some legal services are provided by the New York Legal Assistance Group (“NYLAG”), which has attempted to renegotiate individual medallion loans on behalf of clients.¹⁵⁵ Additionally, NYLAG screens drivers for other legal issues, such as landlord-tenant, mortgage, or bankruptcy matters,¹⁵⁶ and provides clients with free assistance.¹⁵⁷

\$2.50 fee. *Congestion Surcharge*, N.Y. STATE DEPT. OF TAX’N & FIN. (Feb. 2, 2021), <https://www.tax.ny.gov/bus/cs/csidx.htm> [<https://perma.cc/DB2M-R8JE>].

147. Brian M. Rosenthal, *New York to Spend \$65 Million to Rescue Cab Drivers. Is it Enough?*, N.Y. TIMES (Mar. 9, 2021), <https://www.nytimes.com/2021/03/09/nyregion/nyc-taxi-drivers-bailout.html> [<https://perma.cc/7ZY5-GNR7>].

148. *Id.*

149. *Id.*

150. *Id.*

151. *Id.*

152. Julia Rothman & Shaina Feinberg, *A Rough Ride for N.Y.C. Cabbies*, N.Y. TIMES (Apr. 9, 2021), <https://www.nytimes.com/2021/04/09/business/taxi-medallion-rescue-program.html> [<https://perma.cc/4LJL-PJMB>].

153. *Medallion Relief Agreement*, *supra* note 36.

154. *Owner/Driver Resource Center*, N.Y.C. TAXI AND LIMOUSINE COMM’N, <https://portal.driverresourcecenter.tlc.nyc.gov/> [<https://perma.cc/29Q2-JFMH>].

155. *New Resource Center Offering Legal and Other Services to Hard Hit TLC Drivers, Owners*, N.Y. LEGAL ASSISTANCE GRP. (May 12, 2020), <https://www.nylag.org/tlc/> [<https://perma.cc/8YK3-24XS>].

156. More than 950 medallion owners have previously filed for bankruptcy. While bankruptcy is not the focus of this Note, it is one option for medallion owners facing unpayable debts. However, the consequences of declaring bankruptcy can be severe. Medallion owners may lose their homes, cars, or other assets through the process. Felicia Singh (@FSingh_NYC), TWITTER (Feb. 9, 2021, 1:50 PM),

Drivers had also hoped that the New York Attorney General's investigation into medallion debt fraud may come to their aid.¹⁵⁸ The Attorney General threatened to sue the City for fraud, unlawful profit, and other violations of state law.¹⁵⁹ However, the Attorney General never officially filed a lawsuit in this matter, further narrowing one of the only remaining paths for medallion owners to receive financial relief through the court system.¹⁶⁰

II. Taxi Medallion Owners' Failed Litigation Efforts

The taxi medallion debt crisis is an increasingly dire problem. Taxi medallion owners and their advocates have turned to the courts to seek financial and equitable relief on numerous occasions.¹⁶¹ However, these efforts to litigate towards a resolution have widely failed.¹⁶² This Part discusses previous efforts to litigate for relief and the lack of potential for future success. It will outline some of the cases and claims that advocates have brought in both state and federal courts. Medallion owners have consistently raised takings, equal protection, and due process claims.

A. Medallion Owners' Recurring Legal Claims

Medallion owners have sought relief through litigation, in New York and other jurisdictions, on various occasions. Unfortunately, these efforts have widely failed. Although the precise legal strategy has changed from case to case, most medallion owner-initiated suits have raised one or more constitutional claims. In particular, drivers have repeatedly claimed that they deserve compensation because they have suffered a regulatory taking, that asymmetrical restrictions on medallion owners and Uber and

https://twitter.com/FSingh_NYC/status/1359213087694462977

[<https://perma.cc/S536-3RZP>].

157. *New Resource Center Offering Legal and Other Services to Hard Hit TLC Drivers*, *supra* note 155.

158. Winnie Hu, *New York Attorney General Accuses N.Y.C. of Fraud over Taxi Crisis*, N.Y. TIMES (Feb. 20, 2020), <https://www.nytimes.com/2020/02/20/nyregion/nyc-taxi-medallion-lawsuit.html> [<https://perma.cc/2THV-7V2V>] ("The state's attorney general is seeking \$810 million from the city to compensate financially struggling taxi medallion owners.").

159. *Id.*

160. Clayton Guse & Stephen Rex Brown, *N.Y. Attorney General Letitia James Backs Off of Lawsuit Against NYC for Taxi Medallion Crisis*, N.Y. DAILY NEWS (Feb. 18, 2021), <https://www.nydailynews.com/new-york/ny-ag-james-taxi-medallions-crisis-20210218-gq5hpkjl2zf57cnhzytje36pqa-story.html> [<https://perma.cc/9FDK-5AWJ>].

161. *See infra* Part II.A.

162. *Id.*

Lyft drivers violate the Equal Protection Clause, and that medallion owners' due process rights have been violated. Courts have rejected all of these constitutional claims.

1. Unsuccessful Takings Claims

Medallion owner-plaintiffs premise their takings claims on the severe diminution in value of their medallions, but these claims have failed. Medallion owners claim that the TLC and the City promised exclusivity for street hails.¹⁶³ But because the TLC has more recently permitted rideshare drivers to pick up customers in a manner with striking similarity to a traditional street hail, drivers feel that their medallions, which they own, have substantially diminished in value.¹⁶⁴

The seminal case courts apply when determining whether a government's action constitutes a regulatory taking is *Penn Central Transportation Co. v. City of New York*.¹⁶⁵ *Penn Central* established a three-pronged test for determining whether a regulation effects a taking. Courts should assess the character of the government action, the economic impact of the regulation, and the extent to which the regulation interferes with the property owner's reasonable investment-backed expectations.¹⁶⁶ *Penn Central* indicates that the required analysis to assess whether a regulation has effected a taking is flexible and ad hoc.¹⁶⁷ The up-to-90% diminution in value some medallion owners have experienced strengthens

163. Wyman, *supra* note 97, at 12–18 (2017); David K. Suska, *Regulatory Takings and Ridesharing: "Just Compensation" for Taxi Medallion Owners*, 19 N.Y.U. J. LEGIS. & PUB. POL'Y 183, 187 (2016).

164. Suska, *supra* note 163, at 184.

165. *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104 (1978) (holding that *Penn Central* had not suffered a taking when New York City's Landmarks Law prevented significant alterations to Grand Central Terminal). Initially, the Fifth Amendment Takings Clause was construed more narrowly—individuals could be compensated only if the government permanently and physically occupied their land. Regulatory takings, however, do not consist of a permanent physical occupation. Instead, property owners claim that the government's regulation of their property has reduced the value of that property. The Supreme Court began recognizing the possibility of regulatory takings in dicta in cases like *Mugler v. Kansas*. 123 U.S. 623, 668–69 (1887) (holding that a Kansas law prohibiting the sale of alcohol was not a regulatory taking from a bar owner). In its 1922 *Pennsylvania Coal Co. v. Mahon* decision, the Court established the principle that "if regulation goes too far it will be recognized as a taking." *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922) (holding that the Kohler Act, which barred a mining company from underground mining in areas beneath private residences, constituted a regulatory taking from the defendant mine company).

166. Steven Oxenhandler, *Taxicab Licenses: In Search of a Fifth Amendment, Compensable Property Interest*, 27 TRANSP. L.J. 113, 124 (2000).

167. Suska, *supra* note 163, at 192.

their claim under *Penn Central*. However, similarly large diminutions in value have not necessarily been classified as regulatory takings in the past.¹⁶⁸

Despite this diminution in value, courts have uniformly held that taxi medallion owners have not suffered a taking. In part, this may be because courts have not needed to rule on the merits of some takings claims. For instance, in *Progressive Credit Union*, the Second Circuit held that the medallion owner-plaintiffs' takings claim was not ripe under *Williamson County Regional Planning Commission v. Hamilton Bank*, which requires that parties first exhaust all state compensation remedies before asserting a takings claim in federal court.¹⁶⁹ However, some scholars suggest that medallion owners should also lose their takings claims if decided on the merits for two key reasons. First, the character of the government's action weighs against a taking. The City's accommodation of ridesharing resembles "the type of routine government action rarely triggering takings liability."¹⁷⁰ Perhaps this type of government action more closely resembles a zoning ordinance or some other routine regulatory change than a physical appropriation that would actually result in a taking.¹⁷¹ Second, the reasonable investment-backed expectations of medallion owners lean against compensation.¹⁷² One article by David Suska argues that "the nature of the highly regulated taxi industry makes any expectation of stability or insulation from regulatory change unreasonable."¹⁷³ Thus, to him, a complete *Penn Central* analysis would not be decided in favor of medallion owners.¹⁷⁴

Although efforts at relief through targeted litigation have failed, some scholars believe the Fifth Amendment Takings Clause should play a wider role in protecting citizens. According to the legal scholars Lawrence

168. *Id.* at 201; *Penn Cent.*, 438 U.S. at 131; *Hadacheck v. Sebastian*, 239 U.S. 394, 414 (1915) (holding that an 87.5% diminution in the value of a brick yard was not sufficient to constitute a regulatory taking).

169. *Progressive Credit Union v. City of New York*, 889 F.3d 40, 54–55 (2d Cir. 2018); *Williamson Cnty. Reg'l Plan. Comm'n v. Hamilton Bank of Johnson City*, 473 U.S. 172, 194 (1985) (holding that a claim that the application of government regulation effects a taking of property is not ripe until the government entity charged with implementing the regulation has reached a final decision regarding the application and until the plaintiff has exhausted procedures for obtaining compensation).

170. Suska, *supra* note 163, at 205.

171. *Id.*

172. Distinct or reasonable investment-backed expectations are not clearly defined in *Penn Central* or any other Supreme Court case. *Id.* at 202.

173. *Id.* at 203.

174. Medallion owners would surely disagree with Suska's analysis. Wyman, *supra* note 97, at 97 n. 311.

Blume and Daniel Rubinfeld, the Takings Clause is supposed to function as insurance to protect property owners against market changes.¹⁷⁵ Circumstances and markets change over time. Instead of insuring the medallion owners against this risk, the Takings Clause, according to the courts, does not offer assistance to medallion owners because these owners do not have a cognizable property interest in the *value* of their medallions.¹⁷⁶ In *Lucas v. South Carolina Coastal Council*, the Supreme Court was willing to bend the rules and invent a new test to assist a wealthy and white property owner who, according to Justice Souter in his dissenting statement on the case, had not actually suffered a total wipe-out of economic value.¹⁷⁷ *Lucas* does not apply to the predicament of medallion owners given that they have not suffered a total wipe out. Yet, it is striking that when it comes to supporting the financial stability of immigrant taxi drivers instead of wealthy beachfront property owners (as in *Lucas*), courts have opted not to bend the rules or create new tests that guarantee just compensation.

As much as the decisions not to grant just compensation to disgruntled medallion owners contradict the policies behind the Takings Clause, courts have not technically erred. The City's regulations (or lack thereof) were not on medallions or their owners, but instead impacted rideshare companies and drivers, permitting them to enter the market. This distinction has also allowed courts to avoid a complete *Penn Central* analysis in their rulings. A takings claim cannot succeed when the regulation in question does not directly regulate the plaintiff.¹⁷⁸ If, for example, the TLC had imposed a price ceiling on the value of taxi medallions around \$150,000, perhaps medallion owners would have a viable takings

175. Lawrence Blume & Daniel L. Rubinfeld, *Compensation for Takings: An Economic Analysis*, 72 CAL. L. REV. 569, 590–92, 610–11, 624 (1984).

176. *Newark Cab Ass'n v. City of Newark*, 901 F.3d 146, 152 (3d Cir. 2018) (holding that medallion owner-plaintiffs failed to state takings, equal protection, and substantive due process claims). Medallion owners' property rights do not extend to the value of the permit or regulation of the wider market, according to courts. *Id.*

177. *See generally Lucas v. S.C. Coastal Council*, 505 U.S. 1003 (1992) (holding that when a regulation completely eliminates the value of certain property, the regulation is a per se taking, and that a South Carolina regulation caused a total wipe out of the value of Lucas' property). Justice Souter dissented in part. In a statement, as opposed to a traditional dissenting opinion, Justice Souter noted that the petitioner, Lucas, had likely not suffered a total economic wipe out because of the regulation. Therefore, Justice Souter believed that certiorari had been "granted improvidently." *Id.* at 1076 (Souter, J.)

178. According to Judge Richard Posner, "Taxi medallions authorize the owners to own and operate taxis, not to exclude competing transportation services." *Ill. Transp. Trade Ass'n v. City of Chicago*, 839 F.3d 594, 597 (7th Cir. 2016). Since the City did not change the regulatory scheme for medallions prior to the medallion crash, medallion owners would not have a takings claim.

claim. While the impact of the lack of regulations on the rideshare industry is nearly identical to this hypothetical price ceiling, the Takings Clause is not currently expansive enough to permit this type of claim. Courts should consider reading the Takings Clause more expansively in order to mirror the ideas of Blume and Rubinfeld and ensure that those who make significant investments in their property have their financial well-being insured against harmful government action.

2. Unsuccessful Equal Protection Claims

Equal protection claims have also failed. With this claim, medallion owners have alleged that the defendant City violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution by imposing different regulatory burdens on medallion taxis and rideshare vehicles.¹⁷⁹ Medallion owners claim that they are similarly situated with rideshare drivers and that regulatory differences are not supported by a rational basis.¹⁸⁰ Under this standard, though, which is deferential to lawmakers, courts have held that regulatory burdens that afflict medallion owners and rideshare drivers differently are justified by a rational basis.¹⁸¹

While courts have undoubtedly abided by existing equal protection jurisprudence in rejecting medallion owner-plaintiff equal protection claims, the lack of assistance the Fourteenth Amendment offers to individuals like medallion owners is deeply troubling. Because courts have held that medallion taxis and rideshare vehicles are not prima facie identical,¹⁸² courts have granted deference to a government's decision to regulate each entity differently so long as the government meets the low bar of rational basis review.¹⁸³ This determination glosses over the similarities between modern taxis and rideshare vehicles. While each has a different method of finding passengers, the result of each service is that

179. *Progressive Credit Union v. City of New York*, 889 F.3d 40, 44 (2d Cir. 2018).

180. *Id.* at 44–45. “Similarly situated” has not been interpreted to simply mean that the two entities must have some overlapping interests. *Clubside, Inc. v. Valentin*, 468 F.3d 144, 159 (2d Cir. 2006). Instead, “plaintiffs must show an extremely high degree of similarity between themselves and the persons to whom they compare themselves.” *Id.*

181. *Progressive Credit Union*, 889 F.3d at 50–51. The court listed a number of distinctions between medallion taxis and rideshare vehicles to reach this conclusion. For example, rideshare vehicles cannot serve street hail customers or customers who can only pay with cash and rideshare passengers must share personal information including their name and drop-off location with their rideshare driver in advance of entering the car, unlike in medallion taxis. *Id.*

182. *Newark Cab Ass'n v. City of Newark*, 901 F.3d 146, 160 (3d Cir. 2018); *Progressive Credit Union*, 889 F.3d at 51.

183. *Newark Cab Ass'n*, 901 F.3d at 160; *Progressive Credit Union*, 889 F.3d at 51.

customers are picked up by automobiles and taken to their desired destinations. In places like Manhattan, it typically takes less than three minutes for a rideshare car to pick up its passenger.¹⁸⁴ This is effectively the same as a street hail.¹⁸⁵ There are legitimate similarities between the two, but courts have not emphasized these.

Instead, courts have generally focused on the distinctions between medallion taxis and rideshare vehicles to justify differing regulations.¹⁸⁶ There are notable differences between the two services; these differences include branding (the iconic yellow New York taxi versus any car a driver wishes to have), fare structures, and compensation plans and benefits for drivers. Yet, given that the two types of vehicles provide nearly identical services, courts have placed too much weight on these distinctions. Changes may come to the medallion taxi industry in the coming years that could make the two types of vehicles even more similar. For example, if the TLC adopts surge-pricing practices like rideshare companies¹⁸⁷ or medallion taxi drivers use more mobile applications to pick up customers,¹⁸⁸ then perhaps taxis and rideshare vehicles will become sufficiently similar such that medallion owners' equal protection claims will have teeth.

3. Unsuccessful Due Process Claims

184. Polly Mosendz & Hanna Sender, *Here's How Long It Takes to Get an Uber in U.S. Cities*, NEWSWEEK (Dec. 4, 2014), <https://www.newsweek.com/exclusive-heres-how-long-it-takes-get-uber-across-us-cities-289133> [https://perma.cc/7CJ6-DF2X] (“[T]he median wait time for an Uber vehicle is even shorter than five minutes: exactly 3 minutes, 8 seconds in outer boroughs. In Manhattan, it’s just 2 minutes, 25 seconds.”).

185. Although street hails might seem immediate, they are often not. It is common for passengers seeking a street hail to wait for several minutes before securing a ride. Tracy Kaler, *The Ultimate New York City Taxi Guide*, TRACY’S N.Y. LIFE (Jan. 16, 2020), <https://www.tracysnewyorklife.com/nyc-taxi-guide-taking-cabs-new-york/> [https://perma.cc/ETG6-RXUD] (“Depending on the time of day and neighborhood, you might see five or even ten cabs at a time . . . Just keep your arm up until a cab pulls over to pick you up.”).

186. *E.g.*, *Newark Cab Ass’n*, 901 F.3d at 158 (noting that taxi customers have less time to cancel a taxicab than those who order their rides via mobile application).

187. Surge pricing occurs when fares increase at busy times, often during inclement weather or after major events. Derick Waller, *Cabs Could Enact Surge Pricing as Part of Bailout for New York City Drivers*, ABC7NY (Feb. 1, 2020), <https://abc7ny.com/surge-pricing-taxis-nyc-taxi/5893764/> [https://perma.cc/NL5Q-3PFX]. Currently, only rideshare vehicles have this program. In order to increase earnings for medallion taxi drivers, some City officials have proposed a similar program for yellow cabs. *Id.*

188. Kaler, *supra* note 185 (“[Y]ou can use Arro, an app that will bring a taxi to you.”).

Medallion owners have offered various due process claims in different cases, but these have consistently failed. Medallion owner-plaintiffs have complained about deprivation of their property rights and their loss of exclusivity in the market without adequate notice or an opportunity to be heard.¹⁸⁹ Across a variety of fora, courts have agreed that medallion owners do not hold a cognizable property interest in market exclusivity and therefore do not have a viable due process claim.¹⁹⁰

The medallion owners do not have a property interest in the right to be the exclusive provider of ride-for-hire services or in the value of their medallions.¹⁹¹ Additionally, because the regulations that crashed the medallions' value actually related to rideshare vehicles and not medallion taxis, medallion owners also do not have a procedural due process claim and have not been entitled to notice or other procedural protections.¹⁹² At this point, there is not much that medallion owners can do to successfully win this claim.

189. *Progressive Credit Union v. City of New York*, 889 F.3d 40, 45 (2d Cir. 2018).

190. *Id.* at 52. In order to determine whether a cognizable property right is impacted, the Second Circuit first assessed whether the interest would be protected under state law and then weighed the importance of the right to the holder. *Id.* at 51. In response to the medallion owner-plaintiffs' procedural due process complaint, the court applied the *Mathews* test, which requires that courts balance the private party's interest, the risk of erroneous deprivation and probable value of additional procedural safeguards, and the state's interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Given that the court determined that the medallion owners did not have "vested, constitutionally protected property" interests in the value of their medallion, the *Mathews* test weighed heavily towards the state's interests. *Progressive Credit Union*, 889 F.3d at 52; accord *Newark Cab Ass'n*, 901 F.3d at 152–53; *Gebresalassie v. District of Columbia*, 170 F. Supp. 3d 52, 70 (D.D.C. 2016) (holding that the District of Columbia was entitled to dismissal of an action by taxicab drivers challenging the constitutionality of the District's Vehicle-for-Hire Innovation Amendment Act of 2014).

191. *Progressive Credit Union*, 889 F.3d at 53; *Dennis Melancon, Inc. v. City of New Orleans*, 703 F.3d 262, 274 (5th Cir. 2012) ("[W]hatever interest Plaintiffs hold in their [taxi licenses] is the product of a regulatory scheme that also vests the City with broad discretion to alter or extinguish that interest."); *Minneapolis Taxi Owners Coal., Inc. v. City of Minneapolis*, 572 F.3d 502, 510 (8th Cir. 2009) (holding that it was not a takings or due process violation for the City of Minneapolis to uncap the number of transferrable taxi licenses that it issues).

192. *Progressive Credit Union*, 889 F.3d at 54. In any event, the court did not believe that the plaintiffs had adequately demonstrated a lack of opportunity to be heard. Before the TLC promulgated its Accessible Conversion Rules, it posted notices, hosted two public hearings, and solicited public comments. According to the court, this was adequate procedure. *Id.*

B. Failed Litigation in New York State Court

New York state courts have not been receptive to medallion owners' claims. In *Hervias v. City of New York*, the Supreme Court of New York County dismissed the medallion owners' suit for their failure to state a claim and lack of standing.¹⁹³ The court interpreted the owners' request for relief, if fulfilled by the government, as a discretionary governmental activity, and noted that the court "can only compel respondents to take actions that are ministerial."¹⁹⁴ The simple belief that medallions should be worth more did not establish an injury sufficient to constitute standing.¹⁹⁵ Furthermore, the court indicated that statute of limitations restrictions prohibited the plaintiffs from challenging the 2011 decision by the City to allow ride-sharing companies to operate.¹⁹⁶ With such a resounding dismissal, the path for relief through New York state courts is narrow. The Court of Appeals theoretically could weigh in, but the chances of radically different results are low.¹⁹⁷

C. Failed Litigation in the Second Circuit Court of Appeals

In *Progressive Credit Union v. City of New York*, the Second Circuit affirmed the dismissal of medallion owner-plaintiffs' equal protection and due process claims.¹⁹⁸ This decision severely diminishes the likelihood of New York City medallion owners' litigation success. Here, the court held that medallion taxis and for-hire or rideshare vehicles were not identical classes.¹⁹⁹ Since they were not identical, the City only needed a rational basis for different regulatory treatment, and they met that burden.²⁰⁰ This halted the owners' equal protection claim. The court also did not believe the owners lacked adequate procedural protections and dismissed the due

193. The Supreme Court of New York County is Manhattan's trial court. *Court Structure*, N.Y. COURTS, <https://ww2.nycourts.gov/courts/8jd/structure.shtml> [<https://perma.cc/AJ4X-9ZV7>]; *Hervias v. City of New York*, 2017 NYLJ LEXIS 3523, at *1, *4 (Dec. 18, 2017) ("[T]he decline in the value of medallions and in the income generated by taxis does not form the basis of a mandamus to compel").

194. *Hervias*, 2017 NYLJ LEXIS 3523 at *4. Specifically, the medallion owner-petitioners "sought for the court to order respondents to establish and enforce standards to ensure their taxicab medallions remained financially viable arguing their income plummeted with applications designed to hail rides." *Id.* at *1.

195. *Id.* at *5.

196. *Id.* at *6.

197. The Court of Appeals is New York State's highest court. *Court Structure*, *supra* note 193.

198. *Progressive Credit Union v. City of New York*, 889 F.3d 40, 55 (2d Cir. 2017).

199. *Id.* at 51.

200. *Id.*

process claims.²⁰¹ And because the owners had not yet asked the state for compensation, they had not met the requirements of *Williamson County*.²⁰² Thus, their takings claim was not ripe for review in federal court.²⁰³ With this dismissal, the Second Circuit does not seem to be a possible forum for future litigation success.

D. Similar Results in Other Federal Courts

Although the exact claims vary among taxi medallion owners in different geographic areas, courts have dismissed similar arguments in other jurisdictions outside of New York as well. These rulings further narrow the possibility of future successful litigation for medallion owners in the City. For example, the Third Circuit denied Newark, New Jersey taxi owners' takings, equal protection, and due process claims.²⁰⁴ The Eighth Circuit similarly denied Minneapolis taxi owners' takings and Fourteenth Amendment claims.²⁰⁵ And in two opinions by Judge Richard Posner, the Seventh Circuit denied Chicago and Milwaukee taxi permit owners' takings and equal protection claims.²⁰⁶ New York medallion owners' litigation efforts in federal court cannot rely on cases stemming from similar predicaments in other jurisdictions.

E. How Taxi Medallion Owners Can Move Forward

With state court, Second Circuit, and other federal jurisdictions all unanimously dismissing taxi medallion owners' claims, future litigation efforts are extremely unlikely to succeed. Now, taxi medallion owners need

201. *Id.*

202. *Id.* at 54–55; see *Williamson Cnty. Reg'l Plan. Comm'n v. Hamilton Bank*, 473 U.S. 172, 186 (1985) (“[A] claim that the application of government regulations effects a taking of a property interest is not ripe until the government entity charged with implementing the regulations has reached a final decision regarding the application of the regulations to the property at issue.”).

203. *Progressive Credit Union*, 889 F.3d at 54–55.

204. *Newark Cab Ass'n v. City of Newark*, 901 F.3d 146, 162 (3d Cir. 2018).

205. *Minneapolis Taxi Owners Coal., Inc. v. City of Minneapolis*, 572 F.3d 502, 504 (8th Cir. 2009).

206. *Ill. Transp. Trade Ass'n v. City of Chicago*, 839 F.3d 594, 599 (7th Cir. 2016); *Joe Sanfelippo Cabs, Inc. v. City of Milwaukee*, 839 F.3d 613, 616 (7th Cir. 2016). Both cases were decided on the same day and, while they were not officially combined, were treated as parallel cases. Each held that taxi permits issued by city governments are property, but owning a permit does not give the permit owner a property right in or control over any taxi substitutes in the market. *Ill. Transp. Trade Ass'n*, 839 F.3d at 599; *Joe Sanfelippo Cabs, Inc.*, 839 F.3d at 616.

to seek policy solutions. The next part of this Note will propose a role that each level of government should play to assist indebted medallion owners.

III. Solving the Taxi Medallion Debt Crisis

In early November 2021, the City finally brokered a deal for one lender to significantly restructure medallion loans. This Part will outline this deal and offer additional proposals that City, State, and federal policymakers should consider to further alleviate this crisis.

A. New York City's New Medallion Relief Program

In early 2021, Mayor de Blasio announced that the City would be creating a \$65 million fund to assist taxi medallion owners.²⁰⁷ By late-October 2021, these funds had been used to restructure 144 loans, “representing \$18.7 million in debt forgiveness.”²⁰⁸ However, the plan was sharply criticized by Bhairavi Desai of the Taxi Workers’ Alliance.²⁰⁹ For months, the Taxi Workers’ Alliance continued to negotiate for medallion relief terms that offered substantial debt forgiveness, a collective solution, and justice.²¹⁰

Finally, on November 3, 2021, Mayor de Blasio announced an agreement between the City, the New York Taxi Workers’ Alliance, and Marblegate Asset Management (“Marblegate”).²¹¹ Marblegate is the largest medallion lender.²¹² The agreement specified that Marblegate would restructure all of its outstanding medallion loans to a principal balance of \$200,000.²¹³ Each restructured loan will have a 5% interest rate and a monthly payment ceiling of \$1,122.²¹⁴ Importantly, the City will provide a

207. Henry Goldman, *NYC Pledges \$65 Million of Taxi Aid that Drivers Call ‘Horrible’*, BLOOMBERG (Mar. 9, 2021), <https://www.bloomberg.com/news/articles/2021-03-09/nyc-pledges-65-million-of-relief-to-taxi-medallion-owners> [https://perma.cc/6DR4-HL95].

208. *Taxi Medallion Relief Program Achieves Debt Relief for 144 Owners*, CITY OF N.Y. (Oct. 23, 2021), <https://www1.nyc.gov/office-of-the-mayor/news/706-21/taxi-medallion-relief-program-achieves-debt-relief-144-owners> [https://perma.cc/2BCW-RS2Y].

209. Rosenthal, *supra* note 147.

210. Goldman, *supra* note 207.

211. *Medallion Relief Agreement*, *supra* note 36.

212. Lizzie Widdicombe, *The Year in Labor Strife*, NEW YORKER (Dec. 31, 2021), <https://www.newyorker.com/news/2021-in-review/the-year-in-labor-strife> [https://perma.cc/YCM3-8TWT].

213. *Medallion Relief Agreement*, *supra* note 36.

214. *Id.*

guarantee on the principal and interest for these loans.²¹⁵ This means that if a medallion owner is unable to make a monthly payment, the City will step in to ensure that the owner does not default.²¹⁶

This is almost exactly what NYTWA sought, but it was not an easy process. Beginning in September 2021, NYTWA members staked a protest camp outside City Hall.²¹⁷ Drivers continued to demand that the City institute additional relief measures.²¹⁸ For weeks, drivers picketed, slowly gathering more attention to their cause from politicians and the general public.²¹⁹ Nevertheless, the City still refused to meet with the NYTWA organizers.²²⁰ In response, on October 20, 2021, some began a hunger strike.²²¹ Over the course of two weeks, seventy-eight individuals participated in the hunger strike at various points and six fasted for the entire period.²²² Eventually, de Blasio and the City caved and agreed to meet with the organizers. A few days later, the City announced that it had brokered this deal.

Overall, this is an excellent step that will help thousands of drivers. \$1,122 is a much more affordable monthly payment than many drivers have at the present.²²³ For many drivers, the restructuring of their loan down to \$200,000 represents forgiveness of hundreds of thousands of dollars of debt.²²⁴ However, there's still more that the City should do to assist medallion owners. Furthermore, New York State and the federal government should also take actions to help medallion owners. The following few sections will detail the steps that each level of government should take to further alleviate this crisis.

215. *Id.*

216. Julia Kagan, *Guaranteed Loan*, INVESTOPEDIA (Oct. 20, 2021), <https://www.investopedia.com/terms/g/guaranteed-loan.asp> [<https://perma.cc/K3ND-QGN4>].

217. Molly Crabapple, *How the Taxi Workers Won*, THE NATION (Dec. 13, 2021), <https://www.thenation.com/article/society/taxi-driver-strike/> [<https://perma.cc/P2ZJ-ZDJC>].

218. *Id.*

219. *Id.*

220. *Id.*

221. *Id.*

222. *Id.*

223. Interview with Jonathan, *supra* note 29.

224. Widdicombe, *supra* note 212 (“[D]own from Desai estimates [to be] . . . an average of five hundred and fifty thousand dollars”).

B. Additional Actions that New York City Should Take

The City government should take additional steps to implement a solution to help all medallion owners. This means ensuring that medallion owners whose loans are from lenders other than Marblegate are supported, and it also means that the City must seek creative solutions to assist former taxi medallion owners and to give new economic choices to current medallion owners.

1. The City Should Continue to Negotiate with Other Lenders

While Marblegate is the largest medallion loan lender, many medallion owners use other lenders.²²⁵ The City must continue to seek out the same terms for all medallion owners, regardless of their lender. During its initial announcement in early-November, the City committed to this aim.²²⁶ Additionally, drivers themselves are seeking to work out the details with other lenders.²²⁷ It is essential that the City follow through on its commitment. Otherwise, thousands of medallion owners will remain in financial turmoil without any benefits from the City's agreement with Marblegate simply because their loan is managed by a different financial institution.

2. Assist Former Medallion Owners Who Have Declared Bankruptcy

The City's agreement with Marblegate offers significant relief to current medallion owners. However, in the last several years, hundreds of medallion owners have had their medallion loans foreclosed by a lender or have declared bankruptcy.²²⁸ Since the start of 2018, at least 1,677 loans

225. Felicia Singh, *Taxi Medallion Owners and Their Families Are Still Suffering*, GOTHAMGAZETTE (June 9, 2021), <https://www.gothamgazette.com/opinion/10541-taxi-medallion-owners-families-suffering-debt> [<https://perma.cc/PA9X-3U97>] (“[H]is medallion was seized by Aspire Bank.”); *Frequently Asked Questions About Taxi Medallion Lending and the NCUA's Supervision and Response to the Medallion Market Collapse*, NCUA (June 18, 2020), <https://www.ncua.gov/news/responding-collapse-new-york-city-taxi-medallion-market/press-releases-and-statements/frequently-asked-questions-about-taxi-medallion-lending> [<https://perma.cc/337Z-CLE6>] (“For more than 80 years, credit unions have provided business loans to taxi owners and operators.”).

226. *Medallion Relief Agreement*, *supra* note 36.

227. Widdicombe, *supra* note 212.

228. Clayton Guse, *NYC Taxi Drivers Stage Hunger Strike as Medallion Debt Crisis Intensifies*, N.Y. DAILY NEWS (Oct. 27, 2021),

were foreclosed.²²⁹ In June 2021 alone, forty medallion owners declared bankruptcy.²³⁰ These individuals, who relied on the medallion as a stable and valuable investment but suffered severe economic consequences, also need assistance.

The City should explore options to help these former medallion owners. Because it is not possible to give former medallion owners who no longer have medallion loans and have lost other assets the terms of the City's agreement, the City must implement other options to support these former owners. The City should offer former medallion owners the chance to purchase a new medallion with loan terms that mirror those of the City's agreement with Marblegate. This would offer former medallion owners a chance to reenter the industry. However, some former drivers might not wish to reenter the industry. Therefore, the City should offer job training and placement programs for former medallion owners to ensure that they are able to earn a living in the City.

3. The City Should Create a Medallion Buyback Program

While the City's agreement with Marblegate substantially reduces owners' debt, it still might be difficult for drivers to leave the industry should they so choose. If the City implements a medallion buyback program, it would "purchase medallions at market value from medallion owners who no longer wish to own a medallion."²³¹ This sort of plan could play multiple important roles. First, it would permit drivers who have had much of their debt paid off to retire from the industry without a sizable loss.²³² It would not necessarily guarantee profits for the medallion owner, though. Because the market price of a medallion can fluctuate, either rising or falling, a buyback program would not always allow a medallion owner to walk away debt-free. Nevertheless, it would substantially reduce medallion owners' debts.

york/ny-medallion-hunger-strike-taxi-workers-medallion-foreclosures-20211027-ehs4tln3nzcrlhocxqjfx5h6am-story.html [https://perma.cc/3MHH-UQLF].

229. *Id.*

230. *Id.*

231. COUNCIL OF THE CITY OF N.Y., REPORT OF THE TAXI MEDALLION TASK FORCE 44 (2020), <https://council.nyc.gov/data/wp-content/uploads/sites/73/2020/01/Taxi-Medallion-Task-Force-Report-Final.pdf> [https://perma.cc/Y7KZ-5HVH].

232. For example, if a medallion owner now has \$150,000 of debt and the value of a medallion falls to \$125,000, the individual would be left with \$25,000 in debt. Alternatively, if the market price rose to \$175,000, the medallion owner would pay off their debt and earn \$25,000.

Second, once it has bought back medallions, the City can hold some in reserve and reformulate the medallion market.²³³ Despite the introduction of thousands of rideshare vehicles, the City never analyzed whether the same quantity of yellow taxi medallions made sense. By buying some medallions back and taking cars off the streets, the City could, if it chose, increase the price of remaining medallions by reducing their supply. Alternatively, the City could itself facilitate the leasing of medallions, preventing future drivers from needing to invest hundreds of thousands of dollars to purchase this unpredictable asset.²³⁴

The City is not unfamiliar with buyback arrangements. In 2020, Queens facilitated a gun buyback program in which individuals traded in firearms for cash.²³⁵ While there are few examples of the City government buying back business operating permits, such an initiative would resemble stock buybacks that New York's corporations have consistently facilitated.²³⁶ When a company buys back shares of its stock, share prices increase because the supply has decreased.²³⁷ If the City bought back hundreds or thousands of medallions from drivers who no longer wish to own them, the value of the medallion would likely increase for those who retain their medallions, bolstering the market and ensuring that medallion owners can turn a profit.

233. REPORT OF THE TAXI MEDALLION TASK FORCE, *supra* note 231, at 44. (“This could help to ensure that the number of medallion taxis in operation is reasonably correlated with trip demand, keeping trips per vehicle at sustainable levels.”).

234. *Id.* (“The City could create a program through the TLC by which City-held medallions could be operated by drivers. Under this approach, drivers could more easily earn a livable income by avoiding the costs associated with medallion debt service.”).

235. Lydia Hu, *Amid Spike in Gun Violence, Gun Buyback Program Aims to Take Guns Off Streets*, SPECTRUM NEWS NY1 (Aug. 15, 2020, 6:39 PM), <https://www.ny1.com/nyc/all-boroughs/news/2020/08/15/nypd-and-queens-district-attorney-melinda-katz-host-gun-buyback-event-in-queens> [https://perma.cc/F788-PNBP].

236. In a stock buyback, a corporation buys many of its outstanding shares of stock. A criticism of stock buybacks is that funds may be used by the company to reward wealthy investors rather than to offer raises or hire new workers. Denis Slattery, *NY Lawmakers Propose Stock Buyback Tax that Could Raise Billions from Corporations*, N.Y. DAILY NEWS (Feb. 3, 2020), <https://www.nydailynews.com/news/politics/ny-state-lawmakers-propose-stock-buyback-tax-wall-street-20200204-u2qeqlfishfh3dhsnf2n4tgxegy-story.html> [https://perma.cc/U52M-5HX6]. However, in a buyback program for taxi medallions, the increases in value would be passed to those individuals who choose to retain their medallions. As this Note has described, most of those individuals are facing immense economic distress. *Infra* Part I.E.

237. Roger Wohlner, *Are Stock Buybacks a Good Thing, or Not?*, INVESTOPEDIA (Apr. 14, 2020), <https://www.investopedia.com/articles/financial-advisors/121415/stock-buybacks-good-thing-or-not.asp> [https://perma.cc/JSE6-3FKQ].

C. Actions New York State Should Take

Until February 2021, State Attorney General Letitia James was pursuing a “lawsuit against the City of New York over its role in fraudulently inflating the value of the medallion” and “fight[ing] for \$150,000 restitution for medallion owners over 62 years of age”²³⁸ While the State Attorney General’s office declined to officially begin this lawsuit, despite having investigated the issue for approximately one year, this could have been a great opportunity to assist taxi medallion owners.²³⁹ Now, the State Attorney General and other State agencies must contemplate future litigation against the City and follow through.

While the City has an obligation to make taxi medallion owners whole because their regulations of rideshare companies violated the promise of exclusivity, the State has a responsibility to prosecute the blatant fraud that exacerbated the situation. Both were key causes.²⁴⁰ It is important that the State seek relief for its taxi medallion owners to send a message to all New York citizens that wealthy corporations and investors cannot take advantage of the working poor through fraudulent practices without facing consequences. Furthermore, the funds gathered from successful prosecution could be distributed to older drivers who have had all of their retirement savings wiped out.²⁴¹ Aggressively litigating complaints of fraud is a responsibility uniquely afforded to the State Attorney General.²⁴² The State Attorney General should reopen her investigation into this crisis.

238. NYTWA PROPOSAL, *supra* note 143, at 58. These funds could have been specifically targeted to medallion owners over 62 years of age because these are the individuals who are closest to (or beyond) retirement age. Thus, their financial needs are more pressing than those of younger drivers who ideally will obtain relief and then continue saving for retirement over the next decade or more.

239. Guse & Brown, *supra* note 160.

240. *See supra* Part I.C, Part I.D.

241. When medallion prices boomed, Alix planned to retire around the age of 65 or shortly thereafter. He is now over 70 years old and cannot presently consider retirement because of his financial obligations. Interview with Alix, *supra* note 1. For many medallion owners, the profit they expected to earn when they sold their medallion would be their primary financial source for retirement. Jonathan is now over 60 years old. Jonathan had expected that he would be able to sell his medallion for a few hundred thousand dollars more than the price at which he purchased the medallion (around \$440,000) in 2007. Now, that is impossible and he does not know how he can plan to retire. Interview with Jonathan, *supra* note 29.

242. Bureau of Consumer Frauds & Protection, N.Y. STATE OFF. OF THE ATT’Y GEN., <https://ag.ny.gov/bureau/consumer-frauds-bureau> [<https://perma.cc/L43W-XH7E>].

D. Actions the United States Federal Government Should Take

The federal government should use its unique powers to assist medallion owners.

Unfortunately, the IRS often considers forgiven debt taxable income.²⁴³ Only the federal government has the power to control federal tax collection, so it is uniquely situated to address this issue. When someone has hundreds of thousands of dollars of debt forgiven, their tax bill is enormous. For a driver who has \$250,000 of their medallion debt forgiven, the IRS may ask them to pay nearly \$60,000 in taxes, which is more than a typical year's salary for most drivers.²⁴⁴ Although some may argue that this consequence is still a net positive, as it substantially reduces the balance of indebted medallion owners' loans, an adequate solution cannot be one that permits the IRS to garnish wages from medallion owners or otherwise negatively impact their credit.²⁴⁵ A slight alteration to the Internal Revenue Code would make a huge difference for medallion owners.

In January of 2020, Congressman Gregory Meeks²⁴⁶ and the rest of the congressional delegation from the City introduced a bill that would serve precisely this purpose.²⁴⁷ Through the Taxi Medallion Loan Forgiveness Debt Relief Act of 2020, H.R. 5617, Representative Meeks sought to except discharged taxi medallion debt from the Internal Revenue Code's regulation of cancelled debt.²⁴⁸ In other words, when medallion

243. *Topic No. 431 Canceled Debt—Is it Taxable or Not?*, IRS, <https://www.irs.gov/taxtopics/tc431> [<https://perma.cc/3SKN-8JQK>].

244. Interview with Jonathan, *supra* note 29.

245. *Information About Wage Levies*, IRS, <https://www.irs.gov/businesses/small-businesses-self-employed/information-about-wage-levies> [<https://perma.cc/4K56-WLR3>]; Christine DiGangi, *Does Paying Taxes Late Affect Credit?*, CREDIT.COM (Nov. 27, 2019), <https://www.credit.com/blog/does-paying-taxes-late-affect-credit-score> [<https://perma.cc/CZ8N-FSBS>] (“If you don’t pay your taxes, the IRS can file a notice of federal tax lien with the credit bureaus. That’s a huge negative on your credit reports.”).

246. Congressman Meeks represents New York’s Fifth Congressional District, which covers a number of neighborhoods in Queens as well as parts of Nassau County on Long Island. New York-Congressional District 5, U.S. CENSUS BUREAU, https://www2.census.gov/geo/maps/cong_dist/cd113/cd_based/ST36/CD113_NY05.pdf [<https://perma.cc/C9SH-YA2P>]. Approximately 43 percent of medallion taxi drivers live in Queens, meaning that Congressman Meeks represents many medallion owners. Queens has more medallion taxi drivers than any other borough. *2014 Taxicab Fact Book*, NEW YORK CITY TAXI & LIMOUSINE COMM’N 9 (2014), https://www1.nyc.gov/assets/tlc/downloads/pdf/2014_tlc_factbook.pdf [<https://perma.cc/LP7-MQ34>].

247. *Meeks and New York Delegation Announce Bill to Help Relieve Taxi Medallion Owners of Debt*, U.S. REP. GREGORY W. MEEKS (Jan. 17, 2020), <https://meeks.house.gov/media/press-releases/meeks-and-new-york-delegation-announce-bill-help-relieve-taxi-medallion-owners> [<https://perma.cc/GV2B-F2L2>].

248. *Id.*

owners would have their debt cancelled, they would not then be asked to pay federal income taxes on the discharged portion. This is an important change that could save individual medallion owners tens or hundreds of thousands of dollars. However, to this point, it has not been enacted. After Representative Meeks introduced the bill, it was referred to the House Committee on Ways and Means.²⁴⁹ To date, no hearings have been held.²⁵⁰ And while the bill received bipartisan co-sponsorship thanks to Republican Representative Peter King of New York, the bill was not introduced in the Senate.²⁵¹ Unfortunately, the bill has a long way to go before it is passed into law.

In many regards, this bill plays to the strengths of potential federal intervention while avoiding some of the pitfalls. First, it would not cost the federal government anything to implement. While the federal government would receive less tax revenue after making this change, the taxi medallion debt crisis is such a niche issue that the impact of this reduction would not be severe. There are other larger and existing exceptions to the typical rule that discharged debt is considered taxable, including when the canceled debt was a gift or when debts are discharged in bankruptcy.²⁵² It is certainly precedented to include a carve out like this proposal.

H.R. 5617 technically had bipartisan support, but it remained far from passage. Some legislators, including those in other cities like Philadelphia or Boston whose medallion owners have been impacted by a similar crisis, were not co-sponsors.²⁵³ These legislators may not feel the need to push for action on the bill until a relief plan is in place for their constituent-drivers. And without a network of local relief plans—or a comprehensive federal bailout for taxi medallion owners nationwide—some otherwise supportive legislators may not prioritize this proposal.

249. Taxi Medallion Loan Forgiveness Debt Relief Act of 2020, H.R. 5617, 116th Cong. (2020), <https://www.congress.gov/bill/116th-congress/house-bill/5617> [<https://perma.cc/XH5U-RUMH>].

250. *Id.*

251. Taxi Medallion Loan Forgiveness Debt Relief Act of 2020 Co-Sponsors, H.R. 5617, 116th Cong. (2020), <https://www.congress.gov/bill/116th-congress/house-bill/5617/cosponsors> [<https://perma.cc/U67N-V7QX>]. Representative Peter King has since retired; Sarah Maslin Nir, *Even Without Peter King, G.O.P. Retains His House Seat in New York*, N.Y. TIMES (Nov. 18, 2020), <https://www.nytimes.com/2020/11/18/nyregion/ny-house-garbarino.html> [<https://perma.cc/BU32-CJAD>]. If the Democratic co-sponsors of Representative Meeks' bill re-introduce it during this congressional term, they would need to find a new Republican co-sponsor for it to retain a bipartisan label.

252. William Perez, *Why Debts Discharged in Bankruptcy Are Not Taxable Income*, THE BALANCE (May 6, 2021), <https://www.thebalance.com/canceled-debts-are-not-taxable-income-in-bankruptcy> [<https://perma.cc/2DQT-L2Q4>].

253. H.R. 5617, *supra* note 249.

Regardless, in the direst circumstances when the entire country's well-being is implicated, congressional gridlock nearly paralyzes progress.²⁵⁴ It will likely remain extremely difficult to set aside partisan bickering to pass this relatively minor Internal Revenue Code proposal.

E. Why Taxi Medallion Owners Deserve Additional Support

When many industries collapse, the struggling corporations or individuals do not receive a bailout from the government. Some scholars blame a corporation's inability to innovate as the reason for its demise (i.e. Toys 'R' Us, Borders, RadioShack, and Blockbuster).²⁵⁵ When the government bails out an industry in a manner that could have anti-competitive effects or otherwise intercede upon the operations of the free market, the government is hesitant to proceed.²⁵⁶ Some may argue that medallion owners should not receive any relief beyond what the City has already negotiated because the taxi industry failed to compete with the popular innovations of rideshare companies. They might argue that additional relief would discourage competitors from innovating and entering other markets in the future. However, this perspective fails to grasp the promises made to medallion owners for exclusivity and medallion owners' lack of control.²⁵⁷

Unlike a failed business such as Blockbuster, medallion owners were continuously promised exclusivity of the street hail market by the TLC

254. David Brooks, *The Winter Mitch McConnell Created*, N.Y. TIMES (Dec. 3, 2020), <https://www.nytimes.com/2020/12/03/opinion/covid-relief-mitch-mcconnell.html> [<https://perma.cc/2TBN-LMKF>] (“[W]e have a legislative branch so ideologically divided it can’t address even our most glaring problems.”).

255. Anthony J. Casey & Brook E. Gotberg, *Toys ‘R’ Us and Bankruptcy: Death by Disruption, Not Debt*, CLS BLUE SKY BLOG (Apr. 23, 2018), <https://clsbluesky.law.columbia.edu/2018/04/23/toys-r-us-and-bankruptcy-death-by-disruption-not-debt> [<https://perma.cc/4U2S-CAQ7>].

256. Cheryl D. Block, *Overt and Covert Bailouts: Developing a Public Bailout Policy*, 67 IND. L.J. 951, 953 (1992); *Hearings Before the House Comm. on Public Works and Transp.*, 102d Cong. (1991) (testimony by James Busey, Federal Aviation Administration) (“[D]irect financial aid is not called for and would probably do more harm than good to the competitive process.”).

257. The TLC severely restricts many of the decisions or innovations that taxi medallion owners might have considered. For example, when Uber drivers entered the market, some of them brought luxury cars. However, TLC regulations specify that most new yellow taxis must be Nissan models. *Taxi of Tomorrow*, DESIGN TRUST FOR PUBLIC SPACE, <https://www.designtrust.org/programs/taxi-tomorrow/> [<https://perma.cc/RB9U-LEAS>]. Similarly, medallion drivers were unable to create their own app that would rival Uber or Lyft. Interview with Alix, *supra* note 1. Many potential innovations could never have been implemented because of the TLC's rigid rules.

and the City. Blockbuster always dealt with rival movie rental chains,²⁵⁸ but from the passage of the Haas Act until the introduction of Uber into the City, the promise of street hail exclusivity for medallion owners was upheld. In other words, medallion owners had tremendous reliance interests built upon the expectation that their financial position was secure.²⁵⁹

The City is uniquely responsible for the demise of the medallion and for medallion owners' detrimental reliance. In many cases, there are several confounding variables that jointly explain why a specific industry or business collapsed. While the government's regulations (or lack thereof) may play a role in other economic collapses, the government's regulations were the primary reason why the taxi medallion market crashed.²⁶⁰ The government's responsibility for the medallion debt crisis is undeniable, so the government should feel it uniquely necessary to offer additional assistance to medallion owners.

Furthermore, the need for relief here is tremendous. Prior to the November 2021 agreement, there were between 3,000 and 5,000 loans underwater, meaning that "the total debt held by medallion owners is somewhere between \$2.1 billion and \$3.5 billion."²⁶¹ When Blockbuster declared bankruptcy, the entire corporation, which at one point had over

258. Tom Zeller Jr., *Blockbuster Ends Bid for Rival*, N.Y. TIMES (Mar. 26, 2005), <https://www.nytimes.com/2005/03/26/business/media/blockbuster-ends-bid-for-rival.html> [<https://perma.cc/98H5-SCBN>] (mentioning several of Blockbuster's rivals, including Hollywood Entertainment and Movie Gallery).

259. From the passage of the Haas Act in 1937 until Uber began to enter the City in 2011, nearly 75 years, medallion taxis reigned the City's streets without direct competition. Individual medallion owners detrimentally relied on this promise when they borrowed huge sums to enter what appeared to be a stable taxi industry. According to Black's Law Dictionary, detrimental reliance is "[r]eliance by one party on the acts or representations of another, causing a worsening of the first party's position." *Reliance*, BLACK'S LAW DICTIONARY (11th ed. 2019). While this definition is undoubtedly met, the remedy is less clear. Section 90 of the Restatement (Second) of Contracts indicates that the typical remedy is for the promise to be enforced. However, "[t]he remedy granted for breach may be limited as justice requires." RESTATEMENT (SECOND) OF CONTRACTS § 90 (AM. L. INST. 1981). In this case, enforcing the promise would mean eliminating rideshare vehicles from the City's streets. This is not practical and would cause economic pain to tens of thousands of rideshare drivers. Instead, it makes sense for the City to consider other policy measures that will make medallion owners whole after their detrimental reliance.

260. See *supra* Part I.

261. Clayton Guse, *Look For 'Mission-Driven' Private Investors to Bail Out Taxi Medallion Owners, Says NYC Task Force*, N.Y. DAILY NEWS (Jan. 30, 2020), <https://www.nydailynews.com/new-york/ny-tlc-taxi-medallion-task-force-report-debt-20200130-g7pcmtmtznhtpdjp55feywo4mm-story.html> [<https://perma.cc/T4A7-G6GJ>].

9,000 stores, had less than \$1 billion in debt.²⁶² Blockbuster did not receive government relief, but its financial situation shows the extremely precarious position that medallion owners face. This is an industry of hard-working immigrants who have not just confronted difficult times, but rather have had the value of their primary asset reduced by 90%.²⁶³ Already, approximately one thousand medallion owners have declared bankruptcy and many of them have lost homes or other property through this process.²⁶⁴ Multiple drivers have committed suicide and some fear that without substantial relief, more may occur.²⁶⁵

F. Moving Forward: Ensuring Worker Protections for Taxi Drivers

Beyond providing financial relief to medallion owners, more should be done to assist taxi workers. City lawmakers and the TLC must reimagine the role of taxis so that the industry and its workers can thrive and rely on the medallion as a trustworthy investment once again.

One way to do this would be for the New York State government to enact legislation designating taxi workers as employees. Presently, taxi workers are independent contractors who lack most labor and employment benefits.²⁶⁶ However, should taxi workers obtain employee status, they could organize and collectively bargain to improve working conditions.²⁶⁷ All of the improvements that an employee designation could bring about—health care, paid time off, bargaining power—could make the industry more desirable to future workers. If there are not interested workers and thus minimal demand for taxi medallions, it will not be possible for the medallions' value to remain stable.

In order to make the medallion value more reliable, City and State lawmakers must enact legislation to reform medallion lending practices. As the City's Medallion Task Force wrote in its early 2020 report, this could include strengthening regulations on medallion brokers, preventing risky debt structures, banning confessions of judgment for medallion owners, or

262. Andy Ash, *The Rise and Fall of Blockbuster and How It's Surviving with Just One Store Left*, BUS. INSIDER (Aug. 12, 2020), <https://www.businessinsider.com/the-rise-and-fall-of-blockbuster-video-streaming> [<https://perma.cc/T6BP-6ANR>].

263. Interview with Jonathan, *supra* note 29.

264. Singh, *supra* note 156.

265. Interview with Alix, *supra* note 1.

266. Rubinstein, *supra* note 57.

267. See generally Ibrahim Diallo, *Driving Towards a Decent Living* (2019) (unpublished note) (on file with author).

requiring lenders to verify their borrowers' ability to pay.²⁶⁸ Lawmakers should also consider additional educational programs for potential medallion buyers to ensure that all the responsibilities that accompany medallion ownership are clearly specified in advance.²⁶⁹

Moreover, regulators should permit medallion taxis to innovate to compete with the conveniences of rideshare apps. For instance, medallion taxis need their own robust and user-friendly app so that customers can hail them more easily. While apps like Curb exist to serve this purpose, they are underutilized to this point.²⁷⁰ Many consumers also value the flexible pricing that accompanies rideshare services, so regulators should seek ways to eliminate the rigidity of taxi fares.²⁷¹

CONCLUSION

The City's agreement with Marblegate will significantly help many taxi medallion owners. However, in order to reach a solution that offers substantial relief to all indebted medallion owners, all three levels of government must act. The medallion system offered a promise of economic stability, but the City broke that promise. While the determination of when a bailout or financial relief is warranted turns on specific facts and circumstances, responding to the particular needs and desires of hard-working but low-income or indebted constituencies, as opposed to massive corporations, should be the government's aim. This principle should guide the continued response to the taxi medallion debt crisis.

268. REPORT OF THE TAXI MEDALLION TASK FORCE, *supra* note 231, at 29–32.

269. When individuals consider taking out a mortgage and purchasing a home, educational and counseling resources are often available. Until 2020, though, few (if any) similar services existed for those taking out medallion loans, even though these medallion loans are often larger than home mortgages. In 2020, the TLC launched its Driver Resource Center, offering a range of services, including financial counseling, to medallion owners. *Owner/Driver Resource Center*, *supra* note 154.

270. REPORT OF THE TAXI MEDALLION TASK FORCE, *supra* note 231, at 57.

271. *Id.* at 59–61.