

Honorable Robert S. Lasnik

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHAMBER OF COMMERCE OF THE)
UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

THE CITY OF SEATTLE; SEATTLE)
DEPARTMENT OF FINANCE AND)
ADMINISTRATIVE SERVICES; and FRED)
PODESTA, in his official capacity as Director,)
Finance and Administrative Services, City of)
Seattle,)

Defendants.)

No. 16-cv-00322-RSL

SECOND DECLARATION OF KARA
MAIN-HESTER

**NOTED ON CALENDAR FOR ORAL
ARGUMENT:
July 19, 2016 @ 1:30**

KARA MAIN-HESTER states the following:

- 1) I am over the age of 18 and am competent to testify. I make the following declaration based upon my personal knowledge.
- 2) I am a Strategic Advisor for Regulatory Compliance & Consumer Protection with the City of Seattle. I have a Doctor of Philosophy (Ph.D.), from the University of Washington in Microbiology, and a B.S. in Microbiology from North Carolina State.

- 1 3) Since July 2, 2014, my responsibilities have included implementation of the City's new
2 regulations for Transportation Network Companies ("TNCs"), taxis and for-hire vehicles.
3 These new regulations were codified by Ordinance 124524, which became effective on
4 August 14, 2014.
- 5 4) The per-ride TNC licensing has been in effect since August 14, 2014. Ordinance 124524
6 imposed a \$0.10 per-ride fee on TNCs to cover the estimated enforcement and regulatory
7 costs of TNC licensing, TNC vehicle endorsements and TNC driver licensing. Similar
8 fees are also imposed on taxicab and for-hire vehicles licensees under the same City
9 ordinance. A separate and additional \$0.10 per-ride accessibility surcharge ("accessibility
10 fee") is assessed against all taxicab and for-hire vehicle licensees, and TNCs to offset the
11 higher operational costs of wheelchair accessible taxicab owners and operators.
- 12 5) While the TNCs are ultimately responsible for payment of the TNC licensing and
13 accessibility fees, it is the choice of the TNCs whether to pass along the licensing fee and
14 increases thereof to the passenger. Regulations do not require, nor do they prohibit, that
15 the fee be added to the passenger fare. Findings from the City's enforcement work, which
16 includes booking and taking a trip via an application dispatch system, demonstrate that as
17 of February 27, 2016, Uber passed along its "admin fee" (TNC licensing fee) to its
18 passengers. On February 27, 2016, a City employee took a trip via Uberx and the receipt
19 included a subtotal comprised of the base fare and time and distance charges. A \$1.20
20 booking fee and \$0.20 "City of Seattle accessibility and admin fee" were added to the
21 subtotal. A true and correct copy of that receipt is attached hereto as Exhibit A.
- 22 6) The Director of the Finance and Administrative Services Department ("Director") has the
23 authority to adjust the TNC licensing fee based on the number of new TNC licenses,

1 TNC for-hire driver's licenses and TNC vehicle endorsements issued, and total TNC trips
2 originating in Seattle. Additionally, the Director must consider the following
3 nonexclusive factors prior to adjusting any licensing fee: the projected costs and annual
4 budget allotted for enforcement and regulatory costs across the for-hire transportation
5 industry, the need for increased street inspection in order to reduce illegal activity, the
6 total number of trips originating in Seattle across the for-hire transportation industry, and
7 the administrative burden of issuing additional taxicab licenses, TNC licenses, for-hire
8 driver's licenses and TNC vehicle endorsements.

9 7) The number of TNC licenses, for-hire driver's licenses, vehicle endorsements and the
10 total TNC trips has been significantly larger than was originally contemplated by
11 Ordinance 124524. Since December 2014, there have been over 37,000 applications for
12 TNC drivers. This has resulted in the need for an updated, high-capacity data system to
13 maintain the records, images, enforcement proceedings and licensing actions that are
14 necessary to ensure compliance. This need is required in order to regulate the existing
15 for-hire industry, separate and apart from additional costs associated with implementation
16 and enforcement of Ordinance 124968, which is the Ordinance at issue in this case. The
17 City determined that the cost for the system should be shouldered by the TNCs because
18 this segment of the for-hire industry will comprise 80% of all revenue trips in 2016 but
19 shouldered only 43% of the regulatory cost in 2015.

20 8) Discussions with TNCs, including Uber, about this need for a high-capacity data system
21 began in August 2015. On August 3, 2015, FAS Director Fred Podesta, RCCP Manager
22 William Edwards, City employee Kiersten Grove, and I met with Uber General Manager
23 Brooke Steger and Uber consultant Anna Boone to discuss the City and County's

1 ongoing struggle to process and maintain enormous amount of records for the for-hire
2 driver and vehicle licensing programs. Since then, I have communicated repeatedly about
3 this issue with representatives of Uber. Although our conversations did not explicitly
4 discuss an increase in licensing fees, Uber was clearly on notice that the City required a
5 sophisticated data system to organize the enormous amount of data and regulate the for-
6 hire industry. Our City code is clear that fees may be adjusted to ensure that they cover
7 enforcement and regulatory costs. The City and County even reached out to Uber to
8 develop a web-based platform to assist with driver and vehicle licensing.

9 9) I have personally reviewed the supplemental materials filed by the United States
10 Chamber of Commerce on June 27, 2016. I was struck by the accusation that FAS
11 purposefully timed this fee increase to coincide with the briefing schedule in this case.
12 Nothing could be further from the truth. FAS has known for some time that a fee increase
13 would be necessary to address the exponential growth of the TNC industry in Seattle and
14 to upgrade systems to account for such growth. Moreover, inherent in the accusations is
15 that FAS coordinated with the City's litigation team to orchestrate the timing of the fee
16 increase. Any such accusation is categorically false. FAS chose the July 1 date because it
17 coincides with the start of the third quarter, the beginning of the quarterly billing cycle.

18 10) The \$.04 increase would have been implemented, in the same amount, even if Ordinance
19 124968 had never been adopted because the City needs to pay for this upgraded software
20 system.

21 11) If Ordinance 124968 is struck down, this \$.04 per ride increase will remain unchanged
22 because it covers costs for existing regulation of the for-hire industry, separate and apart
23 from costs associated with collective negotiations.

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12) As of writing this declaration, the City estimates that there are at least eleven (11) entities that meet the criteria of a driver coordinator and thus will be subject to Ordinance 124968.

DATED this 11th day of July, 2016, at Seattle, Washington.


KARA MAIN-HESTER

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of July, 2016, I electronically filed this SECOND DECLARATION OF KARA MAIN-HESTER with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the below-listed:

Timothy J. O'Connell	tim.oconnell@stoel.com
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DATED this 11th day of July, 2016, at Seattle, Washington.

By: /s/Michael K. Ryan
Michael K. Ryan, WSBA #32091
michael.ryan@seattle.gov