**THE COUNCIL OF THE CITY OF NEW YORK**



**OFFICE OF THE GENERAL COUNSEL**

**COMMITTEE REPORT OF THE**

**COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS**

**Hon. Keith Powers, Chairperson**

**May 19, 2022**

**Committee Chambers**

**City Hall**

**Topic I:** ***New York City Taxi and Limousine Commission – (Candidate for appointment by the Mayor upon the advice and consent of the Council as Chair*)**

* **David Do [M-49]**

The TLC was created pursuant to Local Law 12 of 1971. Chapter 65 of section 2300 of the *Charter* states that there shall be a TLC, which shall have the purpose of further developing and improving the taxi and limousine service in New York City (“the City”). It shall also remain consistent with the promotion and protection of the public comfort and convenience, adopting and establishing an overall public transportation policy, which will govern taxi, coach, limousine, and wheelchair accessible van services, as it relates to the overall public transportation network of the City. The TLC is also responsible for establishing certain rates, standards, and criteria for the licensing of vehicles, drivers, chauffeurs, owners, and operators engaged in such services. Furthermore, the TLC provides authorization to individuals who wish to operate commuter van services within the City.

The TLC consists of nine members appointed by the Mayor, all with the advice and consent of the Council. Five of the said members must be a resident from each of the five boroughs of the City, and are recommended for appointment by a majority vote of the Council Members from the respective borough. The TLC members are appointed for seven year terms, and can serve until the appointment and qualification of a successor. Vacancies, other than those that occur due to an expiration of a term, shall be filled for the unexpired term. Furthermore, the mayor may remove any such member for cause, upon stated charges.

The mayor designates one TLC member to act as the Chairperson and Chief Executive Officer. The Chairperson shall have be in-charge of the organization of his/her office, and possesses the authority to employ, assign, and superintend the duties of such officers and employees, as may be necessary to carry out the provisions of Chapter 65 of the *Charter*. The *Charter* provides that the Chairperson shall devote his/her full time to this position and as such, the Chair will receive compensation that is set by the Mayor. The Chair currently receives an annual salary of $243,171.00. The other TLC members are not entitled to compensation.

Pursuant to the *Charter*, all TLC proceedings and all documents and records in its possession, shall be public records. Furthermore, the TLC is required to make an annual report to the Council, on or before the second Monday of January, of every year, concerning information that consists of the following; complaints received by the commission from the public, including, but is not limited to, complaints of overcharging, as well as enforcement actions undertaken by the commission, whether the enforcement action was dismissed or settled, or if a penalty was imposed by the commission on the subject of the enforcement action. The information regarding enforcement actions shall also include, but is not limited to; enforcement action relating to illegal street hails, unlicensed vehicles, overcharging, and toll lane infractions.

If Mr. Do, who is currently establishing residency in Brooklyn, receives the advice and consent of the Council and is subsequently appointed as Chair of the TLC, he will be eligible to complete the remainder of a seven-year term, expiring on January 31, 2024. Copies of the following are annexed to this briefing paper: the candidate’s résumé as well as the related associated message.

**Topic II:** ***New York City Civilian Complaint Review Board– (Council Candidate for appointment*)**

* **Robert Hogan [M-60]**

New York City Charter (“Charter”) § 440 created the New York City Civilian Complaint Review Board (“CCRB” or “the Board”) as an entity independent of the New York City Police Department (“NYPD”). Its purpose is to investigate complaints concerning misconduct by officers of NYPD towards members of the public. The Board’s membership must reflect the City’s diverse population, and all members must be residents of the City.

The CCRB consists of 15 members of the public. Members shall be residents of the city of New York and shall reflect the diversity of the city’s population. The members of the board shall be appointed as follows: (i) five members, one from each of the five boroughs, shall be appointed by the city council; (ii) one member shall be appointed by the public advocate; (iii) three members with experience as law enforcement professionals shall be designated by the police commissioner and appointed by the mayor; (iv) five members shall be appointed by the mayor; and (v) one member shall be appointed jointly by the mayor and the speaker of the council to serve as chair of the board. Only those appointees to CCRB designated by the Police Commissioner may have law enforcement experience. Experience as an attorney in a prosecutorial agency is not deemed law enforcement experience for purposes of this definition. The CCRB hires the Executive Director, who in turn hires and supervises the agency’s all-civilian staff. There are two Deputy Executive Directors: one is responsible for administration and the other for investigations.

All appointees to CCRB serve three-year terms. Vacancies on the CCRB resulting from removal, death, resignation, or otherwise, are filled in the same manner as the original appointment; the successor completes the former member’s un-expired term. Board members are prohibited from holding any other public office or public employment. All CCRB members are eligible for compensation for their work on a per-diem basis. The current per-diem rate is $315.

The CCRB is authorized to “receive, investigate, hear, make findings and recommend action” upon civilian complaints of misconduct by members of the NYPD towards the public. Complaints within the CCRB’s jurisdiction are those that allege excessive force, abuse of authority, discourtesy, or use of offensive language, including but not limited to slurs relating to race, ethnicity, religion, gender, sexual orientation or disability.

The CCRB has promulgated procedural rules pursuant to the City’s Administrative Procedural Act (“CAPA”). These rules regulate the way in which investigations are conducted, recommendations are made, and members of the public are informed of the status of their complaints. The rules also outline the establishment of panels consisting of at least three Board members (no panel may consist exclusively of Mayoral appointees, Council appointees or Police Commissioner appointees); these panels may supervise the investigation of complaints and hear, make findings and recommend action with respect to such complaints. The CCRB, by majority vote of all its members, may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of complaints.

The CCRB’s findings and recommendations with respect to a complaint, and the basis therefore, must be submitted to the Police Commissioner. In all such cases where a finding or recommendation has been submitted, the Police Commissioner is required to report to the CCRB on any action taken with respect to that complaint. The law prohibits the CCRB from making any finding or recommendation solely on the basis of an unsworn complaint or statement. In addition, the law prohibits the CCRB from using prior complaints against a member of the NYPD that have been unsubstantiated, unfounded or withdrawn as the basis for any finding or recommendation regarding a current complaint.

It should also be noted that the CCRB has established a voluntary mediation program in which a complainant may choose to resolve his or her complaint through informal conciliation. Both the alleged victim and the subject officer must voluntarily agree to mediation. Mediation is offered as an alternative to investigation to resolve certain types of complaints, none of which can involve physical injury or damage to property. If the mediation is not successful, the alleged victim has the right to request that the case be fully investigated.

Also, the CCRB is required to issue to the Mayor and to the City Council a semi-annual report describing its activities and summarizing its actions, and is also mandated to develop and administer an on-going program to educate the public about the CCRB.

Mr. Hogan is scheduled to appear before the Committee on Rules, Privileges and Elections on Tuesday, May 17, 2022. Upon appointment by the Council, Mr. Hogan, a resident of Queens, will fill a vacancy and serve the remainder of a three-year term that expires on July 4, 2023. Copies of the following are annexed to this briefing paper: the candidate’s résumé as well as the related associated message.

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