



**JUSTICE THROUGH
COMMUNITY POWER**

**Comments by New York Lawyers for the Public Interest
To the Metropolitan Transportation Authority
Regarding the Central Business District Tolling Program
Environmental Assessment, Submitted on September 12, 2022**

New York Lawyers for the Public Interest (“NYLPI”) strongly supports the Central Business District Tolling Program (“congestion pricing”) as the best way to reduce traffic congestion and air pollution in New York’s central business district (“CBD”), and to raise revenue urgently needed to fund a more accessible, reliable, and sustainable transit system. The Environmental Assessment, as released by the Federal Highway Administration, New York State Department of Transportation, MTA Triborough Bridge and Tunnel Authority, and New York City Department of Transportation on August 10, 2022 (“EA”), clearly shows major environmental, health, and infrastructure benefits from congestion pricing. However, the details of the tolling scheme will have specific impacts on both disability and environmental justice communities, and we offer the following recommendations to address and mitigate these concerns:

First, the EA analyzes seven potential tolling scenarios, and finds that the scenarios with more exemptions from tolls will cause increased traffic on the Cross Bronx Expressway and Staten Island Expressway. While NYLPI strongly supports the proposed deployment of electric transit buses to help offset potentially increased pollution near the Cross Bronx Expressway, electrifying transit buses alone would not directly mitigate air pollution from increased, non-transit truck and vehicle traffic. In addition to implementing congestion pricing, we urge the MTA to adjust tolling structures and closely monitor traffic impacts to ensure that no environmental justice community is impacted by increased emissions. In addition, the tolling program must comply with Section 7(3) of New York’s Climate Leadership and Community Protection Act which bars agencies from taking actions that disproportionately burden disadvantaged communities, such as those in the Bronx.

Second, there must be ongoing public input into the process of choosing, implementing, and adjusting specific tolling scenarios to ensure that congestion pricing does not have the unintended impact of pitting disadvantaged communities’ interests

against one another. For instance, scenario G, which is the best for minimizing increased truck traffic would also have the adverse effect of additional taxi and for-hire vehicle (“FHV”) tolling costs being passed on to vehicle riders, including riders with disabilities who, due to an inaccessible mass transit system, are left with few options other than taxis and FHVs. The scenario that is best for environmental justice communities must be designed to avoid harm to people with disabilities, especially as these issues are highly intersectional and many New Yorkers with disabilities also live in environmental justice communities.

Third, the mitigation of tolling costs via a back-end tax credit to low-income and minority drivers who live in the CBD is unworkable. Such drivers can't afford thousands of dollars of tolls upfront and should not be responsible for the work it takes to apply for, and obtain, a tax credit. A better mechanism to mitigate the impacts on low-income minority drivers and people with disabilities is to issue non-revenue-generating EZ pass tags or similar mechanisms which would exempt such drivers from paying the tolls upfront.

Finally, we stress that the tolling program has major positive implications for disability justice communities. New York City’s worsening traffic congestion constantly disrupts the operation of buses and paratransit vehicles, which – along with taxis and FHVs – are commonly the only forms of accessible mass transit available to the disability community. Congestion pricing is the best way to simultaneously reduce traffic congestion while generating ongoing revenue urgently needed to invest in accessible and safe subway and bus infrastructure. In fact, the MTA’s \$51.5 billion 2020-2024 Capital Plan needs congestion pricing to raise \$15 billion of the money. Without a fully funded Capital Plan, the \$5.2 billion allotment promised to system-wide accessibility improvements will be in jeopardy.

However, congestion pricing must be implemented in a manner that does not further disadvantage the most vulnerable in our communities. While NYLPI appreciates the MTA’s efforts to minimize adverse effects on persons with disabilities by exempting certain qualifying vehicles from the congestion pricing toll, including vehicles with government-issued disability license plates and fleet vehicles owned or operated by organizations used exclusively to provide transportation to people with disabilities, this exemption must be expanded to include all vehicles making Access-A-Ride trips – including taxis and broker vehicles – and the MTA must establish a specific mechanism for identifying and exempting those vehicles, such as issuing non-revenue-generating EZ pass tags that may only be utilized when the driver is undertaking an Access-A-Ride trip.

Additionally, we urge the MTA to expand this exemption to all wheelchair-accessible taxis and FHVs, regardless of whether they are being utilized by the Access-A-Ride program. Not only would this alleviate the burden on disabled riders, but it would strongly incentivize drivers and owners to purchase and operate additional, urgently needed wheelchair-accessible vehicles. Currently only about 3% of the city's more than 100,000 FHVs are accessible, while fewer than 50% of yellow cabs are accessible. If a blanket exemption for wheelchair accessible taxis and FHVs cannot be implemented, these vehicles must at least be exempt from tolling when transporting people with disabilities.

Lastly, the costs of taxi and FHV tolls must not be passed on to riders with disabilities, who are already disadvantaged by the inaccessible public transit system, and who are disproportionately indigent. If the MTA decides on a tolling scenario that passes the costs of tolls in taxis and FHVs on to riders, persons with disabilities who are transported by such vehicles must be exempted from paying the toll.

NYLPI is committed to a more equitable and sustainable city, and we strongly support congestion pricing as the best way to advance both environmental and disability justice. We thank you for this opportunity to comment on the EA, and hope to continue working closely with the MTA and various stakeholders to ensure that New Yorkers most impacted by the inaccessible transit system, the paratransit system, traffic congestion, and pollution benefit from the implementation of this complex and long overdue policy.

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About New York Lawyers for the Public Interest

For over 40 years, NYLPI has been a leading civil rights and legal services advocate for New Yorkers marginalized by race, poverty, disability, and immigration status. Through our community lawyering model, we bridge the gap between traditional civil legal services and civil rights, building strength and capacity for both individual solutions and long-term impact. Our work integrates the power of individual representation, impact litigation, organizing, and policy campaigns. Guided by the priorities of our communities, we strive to achieve equality of opportunity and self-determination for people with disabilities, secure environmental justice for low-income communities of color, create equal access to health care, ensure immigrant opportunity, and strengthen local nonprofits.