



**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  
Proposed Tolling Structure, Submitted on March 11, 2024**

The Central Business District Tolling Program (“Congestion Pricing”) will bring about sweeping changes to New York City, impacting all who travel in and around it, including people with disabilities. Congestion Pricing will reduce traffic in the most gridlocked areas of the city, will improve air quality, and will be a reliable source of the funding for the MTA to implement subway system projects, including desperately needed accessibility improvements. For these reasons, New York Lawyers for the Public Interest (“NYLPI”) – which through its Disability Justice Program advocates on behalf of persons with disabilities and through its Environmental Justice Program fights environmental racism – supports the Congestion Pricing plan.

People with disabilities are among the most affected by Congestion Pricing. While people without disabilities can avoid the Congestion Pricing toll by riding the subway, the subway system is inaccessible to many people with disabilities. Only 30% of stations have elevators, saying nothing of whether the elevators in those stations are operational, and nothing about the litany of other system accessibility barriers including excessive gaps between the trains and platforms. That means that many within the disability community are left with only ground transportation – Access-A-Ride (“AAR”) paratransit, taxis and for-hire vehicles (“FHV”) to the extent they are wheelchair accessible, and private vehicles – to get to work, school, medical appointments, family and friends – everywhere.

Since at least the passage of the Americans with Disability Act in 1990, the MTA has had an obligation to make the subway system accessible. Yet, progress has been slow, often deprioritized by other subway projects. Now, due to a court settlement, the MTA is mandated to add elevators to 95% of stations over the next thirty years. Congestion Pricing will be a crucial piece in funding this mandate. However, people with disabilities, long relegated to inferior ground transportation by the MTA’s own doing, must not now be forced to pay the Congestion Pricing toll. The responsibility to make the subway system accessible shall not be borne by the disability community. While the current disability exemption indicates that the MTA agrees to an extent, it is overly narrow and will require many people with disabilities to pay the toll.

Though the MTA recently published its plan for administering the disability exemption, many substantive and procedural questions remain. In addition to exempting AAR trips (unclear whether this includes the On-Demand program), the MTA will permit a person with a qualifying disability to register one vehicle to be exempt from the toll. People previously approved by AAR will be permitted to register a vehicle. The MTA has also promised that those qualifying under the NYC DOT's Parking Permits for People with Disabilities ("NYC PPPD") program will also be permitted, however this has yet to be confirmed. The MTA is considering extending the exemption to other people with disabilities exemptions if they qualify under other similar city or state programs. It is unclear to what extent the MTA will offer a remote option to apply for the disability exemption.

Though it was written into law in 2019, Congestion Pricing is still only in its nascent phase. It is NYLPI's hope that the MTA will consider the below recommendations to improve the disability exemption. By adopting these recommendations, the MTA will signal an important shift in its treatment of the disability community.

#### Recommendations:

- Rather than linking the exemption reader to a registered vehicle, the MTA must instead link the reader to a personal device, such as a smartphone, belonging to the person with the qualifying disability. Using a personal device will better ensure that the exemption is applied only when transporting the qualifying individual and it will facilitate administrative flexibility as the Congestion Pricing program evolves. The technology for linking a reader to a personal device already exists, so that should not be a barrier for the MTA. Notably, while some in the disability community do not own smartphones, many do. For the remaining few without smartphones, the MTA must develop a narrow and equitable alternative option.
- In the short term, given that the above option likely could not be ready prior to the Congestion Pricing rollout early this summer, the MTA must permit more than one vehicle per person to be registered under the disability exemption. Because people with disabilities may regularly travel in different vehicles owned by various family members, friends, and caregivers, limiting the exemption to one vehicle will result in many qualifying individuals being charged the Congestion Pricing toll. Notably, the NYC PPPD can be used in up to three vehicles.
- The MTA must clarify whether those using AAR's On-Demand program will be exempt from the toll. By deducting the toll from the subsidized portion of the On-Demand program benefit, the MTA is reducing the subsidized amount offered, further limiting the usefulness of the already massively rationed On-Demand program. Just as with

traditional AAR services, those using AAR through the On-Demand program must not be charged a toll.

- The MTA must ensure that individuals can apply for the exemption remotely rather than requiring in-person assessments. It is an unreasonable and needless burden to require applicants to travel to assessment centers to claim their exemption. It also presents an unnecessary cost to the MTA. Rather, the MTA must provide a remote application procedure, such as with the NYC PPPD program, which offers a remote application supported by medical documentation. Additionally, a remote option will permit tourists with disabilities with short-term travel plans in New York City to claim the exemption.
- The disability exemption must be extended to non-AAR taxi and FHV trips when transporting qualifying individuals. Insisting that AAR FHV trips be the only FHV trips that are exempt ignores that many with qualifying disabilities are not AAR customers, yet regularly travel using FHVs because the subway is inaccessible. This group should not be charged the toll. Moreover, as set forth above, linking the exemption reader to a personal device should ease any attendant administrative burden.

NYLPI looks forward to working with the MTA to improve the disability exemption. Please contact me should you have any questions about our recommendations.

Thank you.

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