

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
TWENTY-SECOND JUDICIAL CIRCUIT  
STATE OF MISSOURI**

St. Louis Animal Rights Team, Inc.	)	
and Mare E. Florentino	)	
	)	
Relators,	)	
	)	Case No. _____
v.	)	
	)	
St. Louis Metropolitan Taxicab Commission	)	
and Executive Director Ronald Klein	)	
	)	
Respondents.	)	

Please serve:

Executive Director Ronald Klein  
Metropolitan Taxicab Commission  
2628 Delmar  
Saint Louis, Missouri 63103

**PETITION FOR ISSUANCE OF A WRIT OF MANDAMUS AND ENTRY OF  
DECLARATORY JUDGMENT**

The carriage horse industry in St. Louis is widely regarded as a staple of the Holiday season. An entirely unregulated industry under current conditions, the owners of carriage horses are allowed to work their horses without regard for animal health and welfare or public safety. Indeed, since the St. Louis Metropolitan Taxicab Commission abandoned its authority to regulate the industry, one horse has died of veterinary neglect and another nearly collapsed from heat exhaustion during a summer parade. Carriage horses are easily startled, and because they are vulnerable to exploitation, dozens of horses die from veterinary neglect, car/carriage-horse accidents, or work-related injuries every year in the United States. The St. Louis Animal Rights Team and Mare E. Florentino respectfully request that this Court issue preliminary and permanent Writs of Mandamus and grant declaratory judgment affirming the validity of Sec. 608

of the Vehicle for Hire Code against the St. Louis Metropolitan Taxicab Commission and Executive Director Ronald Klein. Pursuant to Rules 87 and 94.02, and in support of its requests, Relators state as follows:

**PARTIES**

1. The St. Louis Animal Rights Team (“START”) is a non-profit organization registered with the Missouri Secretary of State’s Office with its principal place of business located at 2644 Louis, Ave., Brentwood, St. Louis County, Missouri. START is made up of volunteers dedicated to focusing public attention on animal rights issues, advocating for compassion for the fate of all animals, and ending discrimination against beings solely on the basis of their species.

2. Mare E. Florentino is a St. Louis County resident who lives near Tilles Park, Ladue, St. Louis County, Missouri and who is greatly concerned and distressed by the unconscionable animal suffering resulting from the unregulated carriage horse rides conducted in and around the park during the Holiday season, which began on Friday, November 28, 2014, and continues through January next year.

3. Respondent St. Louis Metropolitan Taxicab Commission (“MTC”) is “a body politic and corporate” created by the Missouri General Assembly with all rights and powers conferred to at § 67.7200 RSMo, *et seq.* According to its statutory mandate, MTC was “created for the public purposes of recognizing taxicab service as a public transportation system, improving the quality of the system, and exercising primary authority over the provision of licensing, control and regulations of taxicab services within the district.” § 67.1804 RSMo.

4. Director Klein is the legally authorized and current chairperson and Executive Director of Respondent MTC. § 67.1806 RSMo. At all times relevant herein, Director Klein was

responsible for the decisions made and carried out on behalf of MTC, including the decision to quit enforcing the Vehicle for Hire Code of the Metropolitan Taxicab Commission, Chap. 1, *et seq.* (2011) (hereinafter the “Vehicle for Hire Code”)<sup>1</sup>. A copy of the Vehicle for Hire Code, which includes the promulgated Director’s Rules, is attached hereto and incorporated by reference as Exhibit A.

### **JURISDICTION AND VENUE**

5. Jurisdiction and venue are proper in this Court pursuant to § 508.050 RSMo because MTC is a municipal corporation with its principal place of business and headquarters located within the geographical boundaries of the City of St. Louis.

### **STATEMENT OF FACTS**

#### **A. Applicable Statutes and Regulations**

6. The Missouri General Assembly created and empowered MTC, as a regional taxicab commission, for the “public purposes of recognizing taxicab service as a public transportation system, improving the quality of the system, and exercising primary authority over the provision of licensing, control and regulations of **taxicab services** within the district.” § 67.1804 RSMo. The “District” includes the incorporated areas of St. Louis City and St. Louis County (hereinafter the “District”). § 67.1802 RSMo.

7. Respondents are statutorily granted the powers to and charged with the responsibilities of “establishing and adopting a districtwide taxicab code.” § 67.1812 RSMo.

8. “Taxicab,” includes “airport taxicabs, on-call/reserve taxicabs and premium sedans referred to collectively as taxicabs.” § 67.1800(16) RSMo.

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<sup>1</sup> Available at <http://www.stl-taxi.com/documents/140909VHC83WITHDIRECTORSRULESandallcurrentupdates3.pdf> (last visited December 1, 2014).

9. “On-call/reserve taxicab” includes “any motor vehicle or nonmotorized carriage engaged in the carrying of persons for hire on the streets of the district.” § 67.1800(14) RSMo.

10. The term “nonmotorized carriage,” under a plain and ordinary definition, includes horse-drawn carriages. The terms “carriages” and “horse-drawn vehicles” are further defined in the Vehicle for Hire Code at § 101(A)(8).

11. Pursuant to the Vehicle for Hire Code, no persons shall own, operate or lease a vehicle for hire service without first obtaining a Certificate of Convenience and Necessity (CCN) or appropriate permit or license from MTC. Vehicle for Hire Code, Chap. 1 § 201(A)(2). Once permission has been secured, persons operating a vehicle for hire service in the District must comply with the Vehicle for Hire Code or risk revocation of their CCNs. *Id.*

12. The Vehicle for Hire Code, at Chap. 6 § 608, (“Code § 608”) sets forth special Requirements for Horse-Drawn Carriages, which includes requirements for “the safety and health [of carriage horses],” “operation [of carriages],” and “training [of carriage horse drivers].”

13. In addition to the Vehicle for Hire Code, the Director promulgates statements of policy to aid MTC in the enforcement of the Vehicle for Hire Code. These statements of policy are known as the “Director’s Rules” which contain more specific animal husbandry requirements.

14. On information and belief two companies—Brookdale Farms and St. Louis Carriage Co.—currently hold CCNs for the operation of horse-drawn carriages within the District. On information and belief, MTC has never revoked their CCNs.

## **B. Relevant Facts**

15. Respondents have previously recognized and acknowledged their regulatory powers over carriage horses and the carriage horse industry through enforcement of the provisions the Vehicle for Hire Code and Director’s Rules.

16. For example, in April 2010, Respondents conducted an investigation of Brookdale Farms. During the course of that investigation, MTC’s veterinarian conducted three inspections of Brookdale Farms’ stable facilities, located in Eureka, Missouri. A copy of MTC’s inspection reports are attached and incorporated as Exhibits B, C, and D, respectively. As indicated by the veterinarian, “[an] examination was performed at [MTC’s] request and was prompted by a complaint [MTC] received concerning the body condition of the horses.” Ex. B. Based on his examinations of Brookdale Farms’ horse population, the veterinarian concluded that “all of the horses appear to have had inadequate caloric intake in recent months.” Ex. B.

17. Director Klein subsequently addressed this complaint in his Director’s Report to the MTC. The meeting notes from Director Klein’s briefly explain that, “The Director reported that as a result of complaints . . . Brookdale Farms, a Carriage Company and CCN holder was under review by Commission Agents . . . The MTC has invoked the code , and . . . mandated a recovery regimen . . .” Ex. E.

18. Without public comment, in November 2013, Respondents quietly abandoned their statutorily imposed regulatory authority and responsibility over carriages and horse-drawn vehicles and stopped enforcing the Vehicle for Hire Code against an entire industry.

19. On December 23, 2013—just one month after MTC walked away from its statutory obligation to regulate horse-drawn vehicles—a carriage horse named King collapsed and died during the Winter Wonderland carriage rides through Tilles Park, St. Louis County, Missouri. As the statutorily empowered regulatory agency, this incident was within the purview

of MTC's authority and responsibilities. On information and belief, Respondents conducted no investigation into this incident and took no enforcement action against King's caretakers.

20. As a result of MTC's abandonment of its regulatory responsibilities and enforcement of the Vehicle for Hire Code, START has been unable to conduct a full investigation into King's death. On information and belief, MTC has failed to enforce certain reporting and documentation provisions set forth in the Vehicle for Hire Code that would have allowed START access to information about King that is crucial to START's stated mission and purpose.

21. In July 2014, a carriage horse named Moose was observed in medical distress after pulling a carriage through the streets of the City of St. Louis in extremely hot weather. As the statutorily empowered regulatory agency, this incident was within the purview of MTC's authority and responsibilities. On information and belief, Respondents conducted no investigation into this incident.

22. As a result of MTC's abandonment of its regulatory responsibilities and enforcement of the Vehicle for Hire Code, START has been unable to conduct a full investigation into this incident. On information and belief, MTC has failed to enforce certain reporting and documentation provisions of the Vehicle for Hire Code that would have allowed START access to information about Moose that is crucial to its stated mission and purpose.

23. In response to the incident involving Moose, Respondents publically acknowledged that that they quit regulating the horse carriage industry in November 2013. Ex. F When asked who was responsible for regulating the carriage-industry, MTC told the press: "The answer is: I don't know . . . I would suspect that no one is, but that is the question. From our perspective, it's not us." Ex. F.

24. On information and belief, Respondents are presently allowing the carriage industry to operate unregulated within the boundaries of the District.

25. On information and belief, there is no agency which is currently enforcing any regulations to ensure that the carriages are mechanically sound, the drivers are properly trained, and/or the horses are being adequately and humanely treated.

26. The effect of Respondents' unlawful abandonment of their regulatory duties and responsibilities has been to put the safety and welfare of the general public and passengers riding in these carriages at risk and to jeopardize the health and welfare of the horses used in the carriage industry.

27. Through their abandonment of their regulatory responsibilities and continued refusal to enforce the existing provisions of their own regulatory code, Respondents are acting in defiance of the will and intent of the Missouri General Assembly and in contravention of lawfully enacted statutes of the State of Missouri.

**STATEMENT IN SUPPORT – Writ of Mandamus**

28. Relators hereby incorporate the preceding paragraphs by reference as if set forth fully herein.

29. Mandamus is an appropriate remedy in instances where a governmental agency or official refuses to perform nondiscretionary duties as required by law and/or the responsibilities of office.

30. The Missouri General Assembly manifested its legislative intent that Respondents act as the primary regulatory authority over non-motorized carriages, including carriage horses, carrying persons for hire on the streets of this taxicab district. § 67.1800 RSMo, *et seq.*

31. In enacting and promulgating the Vehicle for Hire Code and Director's Rules cited herein, MTC recognized its statutory powers and responsibilities to regulate carriage horses carrying persons for hire on the streets of this taxicab district.

32. Prior to their unlawful decision to abandon their regulatory responsibilities in approximately November 2013, Respondents had actively engaged in enforcing the regulations lawfully promulgated pursuant to § 67.1800 RSMo, *et seq.*, and codified at Code § 608.

33. In refusing to currently enforce the provisions of the Code § 608 which were drafted by, enacted by, and previously enforced by MTC itself, Respondents are refusing to perform important ministerial duties with which they been charged by the Missouri General Assembly through lawfully enacted statutory provisions.

34. The acknowledgement and enforcement of their regulatory authority and responsibilities by Respondents are not discretionary functions of their agency and office.

35. Relators are appropriate parties to bring a mandamus action to compel a public agency or official to perform nondiscretionary duties as required by law and/or responsibilities of office.

36. Relators have contemporaneously filed Suggestions in Support of Mandamus with this Petition which it hereby incorporates by reference as if set forth fully herein.

WHEREFORE, Relators START and Ms. Florentino respectfully pray that this Court enter preliminary and permanent Writs of Mandamus against Respondents St. Louis Metropolitan Taxicab Commission and Director Klein, order that Respondent St. Louis Metropolitan Taxicab Commission immediately resume enforcement of its Vehicle for Hire Code, Chap. 6, § 608 and related Director's Rules, and grant any and all other relief that this Court deems just and proper.

**STATEMENT IN SUPPORT – Declaratory Judgment**

37. As provided, in pertinent part, by Rule 87.02(c), “[t]he power of the courts of this state to render declaratory judgments shall extend to declaratory judgments respecting the validity of agency rules . . . and such suits may be maintained against agencies whether or not the plaintiff has first requested the agency to pass upon the question presented.”

38. Respondents have declared that the provisions of the Vehicle for Hire Code and Director’s Rules—rules enacted by the MTC itself and which MTC has undertaken no action to repeal—are invalid and are refusing to enforce these provisions.

39. Respondents have arbitrarily and unilaterally made this decision without any legal authority to do so and in direct contravention of the intent of the Missouri General Assembly and statutes of this State.

40. This Court has the authority to declare that these agency rules are valid and that Respondents’ refusal to acknowledge and enforce their own agency rules is unlawful.

41. Pursuant to Rule 87.09, “in any proceeding under Rule 87 the court may make such award of costs as may be equitable and just.” As a result of Respondents’ unlawful actions, Relators have incurred legal fees and costs and, therefore, an award of costs to Relators is appropriate in the amount that this Court deems to be equitable and just.

WHEREFORE, Relators START and Ms. Florentino respectfully pray that this Court entry a declaratory judgment in their favor, declare that the provisions of Respondent St. Louis Metropolitan Taxicab Commission’s Vehicle for Hire Code, Chap. 6, sec. 608 and related Director’s Rules are valid, order Respondents St. Louis Metropolitan Taxicab Commission and Director Klein to immediately resume enforcement of those provisions, and award costs,

including attorneys' fees, to Relators START and Ms. Florentino in an amount that this Court deems equitable and just.

Respectfully submitted,

/s/ Daniel J. Kolde

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