

October 21, 2026

By Hand

Steve Banks, Corporation Counsel
Law Department
City of New York
100 Church Street
New York, NY 10007

Re: City Council Proposed Intro 943-A
Ban on the Horse Carriage Industry
Notice of Constitutional Violations

Dear Corporation Counsel Banks:

The Law Department is frequently involved in negotiation of legislation on behalf of City Agencies and the Mayor before the City Council votes and the Mayor signs a bill or allows it to age into law. Due to our longstanding personal relationship and your standing as a champion for Constitutional rights over the years, we thought this bill merits your personal attention and review. The bill, as it currently stands, is scheduled for a vote tomorrow. It includes a mess of serious Federal and State Constitutional violations, that will ultimately have to be defended in a court where a judgment in our favor could ultimately weaken municipalities nationwide at a time that they need to be strongest. We are writing to outline the problems now, so that you may advise the Mayor, that the legislation is Constitutionally infirm and we can get to better legislation and a better law.

I should say at the outset that former Council Member Ben Kallos and I are counsel to both Transport Workers Union of America, and Transport Workers Union of Greater New York, Local 100. I will refer to both as TWU. TWU represents, as a union, all of the horse carriage operators who work in Central Park, both "owner-operators," and drivers. We are also representing several of the individuals who drive, have medallions, own carriages, own horses and own some share of the stables where the horses are kept.

This bill has the stated intention of ending the horse carriage business in Central Park, and in the City as a whole, by July 2028. But its impact will be felt the minute the City Council passes the bill in its current form, even if the Mayor waits to sign it. Then, if Mayor Mamdani signs it, it will hit like a bomb, even if it is a year or more before it "takes effect."

Steve Banks
October 21, 2026
Page 2

The owner-drivers and horse owners have a number of interests at stake. The carriage owners have medallions, much like taxi medallions, which they bought for many thousands of dollars. The carriage industry is regulated and someone operating a horse carriage must have a medallion. (One of our clients bought his medallion after being unable to pay the debt on his taxi medallion forced him into bankruptcy.) Some own the carriages which the horses pull. Some also own the horses, which also need to be licensed. The drivers have licenses, and make their living operating in accord with their license. The pending bill just basically says: “Poof, your medallion is now worthless. Your horse needs to be put to pasture, and we get to dictate where that pasture is. Your carriage is now worthless. Your stable is now worthless. And your profession, the one you have a license for, is now banned.” This may be the first time in City history that a previously licensed profession was banned.

All the bill provides is an instruction to the Mayor to develop, maybe, a “transition” package by mid-2027, which may or may not have some economic components. But the minute the bill becomes law, the medallions our TWU members possess, become worthless. And there is no actual provision for compensation for those medallions, the carriages, the horses, the stables and the loss of the right to make a living using a license which may have utilized as their livelihood for decades.

You know that the Fifth Amendment bars a “taking” without “just compensation.” So does the New York State Constitution. The most obvious violation is for the medallion owners. We contend that the taking here is “categorical” as defined by the courts, because the proposed bill deprives the owner of all economically beneficial or productive use of their property. This is the same for the carriages. Even the approach to the horses constitutes a taking from the horse owners. The law's provisions direct where the horses must go effectively compel the horses to be transferred to specific locations. This amounts to a physical taking of the animals themselves. Animals are recognized as personal property under federal law, *Wilkins v. Daniels*, 913 F. Supp. 2d 517 (S.D. Ohio 2012), and the forced relocation or disposition of the horses as distinct from merely regulating their commercial use raises a serious constitutional question. The Supreme Court held in *Horne v. Dep't of Agric.*, 576 U.S. 351 (2015) that the government's categorical duty to pay just compensation when it physically takes possession of an interest in property applies to personal property as well as real property, and that the physical appropriation of personal property constitutes a per se taking requiring just compensation. The proposed ban is not premised on the horses being neglected, diseased, or a nuisance - it is a policy choice.

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Steve Banks
October 21, 2026
Page 3

Driver's licenses are recognized as protected property interests under the Due Process Clause. The Supreme Court held in *Bell v. Burson*, 402 U.S. 535 (1971) that suspension of issued licenses involves state action that adjudicates important interests of the licensees, and that such licenses are not to be taken away without the procedural due process required by the Fourteenth Amendment. The Southern District of New York confirmed in *Evans v. City of New York*, 308 F. Supp. 2d 316 (S.D.N.Y. 2004) that a driver's license is a protected property interest. However, the drivers' licenses here are not being revoked for cause; they are being rendered commercially useless by the elimination of the industry.

We urge you, as a champion of the Constitution, to weigh in for the Mayor in negotiating a bill that can be signed without violating the Constitution. Not about whether this is the soundest way for the City to regulate (or destroy) the horse carriage profession in Central Park, but how to do it in a way which meets its Constitutional obligations.

If it is enacted as it now stands for a committee vote tomorrow, we will seek a TRO the minute the ink dries. Frankly, we don't want to see you in that situation, defending an unlawful taking.

Very truly yours,

Arthur Z. Schwartz

Arthur Z. Schwartz

Benjamin J. Kallos

Hon. Benjamin J. Kallos

cc: Counsel to the City Council
Counsel to the Mayor
Mayor Zohran Mamdani
Speaker Julie Menin