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Dara Jaffee
FOIL Appeal Officer

June 2, 2017

Alex Bell

RE: FOIL Appeal

Dear Mr. Bell:

I am writing in response to your May 18th email concerning the appeal of your FOIL request, which is dated May 16, 2017. On May 9, 2017, DOF's Records Access Officer wrote to you in response to your December 15, 2016 FOIL request. Your request sought parking ticket information for United Parcel Service or any of its subsidiaries regarding any participation in the NYC Delivery Solutions Program. By this May 9th letter, the Records Access Officer informed you that after careful consideration your request was denied and explained to you the basis for the denial of each category of your request.

You have requested the fleet application by the United Parcel Service or any of its subsidiaries to enroll in the NYC Delivery Solutions Program. In the May 9 response, the Records Access Officer explained that the Public Officers Law, Article 6, §87(2)(d) exempts disclosure of records that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Based on your appeal, I have reviewed this and am now providing you with a redacted copy of the most recent application for enrollment in the NYC Delivery Solutions program.

You have requested the number of tickets issued to the United Parcel Service or any of its subsidiaries in 2015 in the NYC Delivery Solutions Program, as well as the dollar amounts of the tickets issued to the United Parcel Service or any of its subsidiaries in 2015 in the NYC Delivery Solutions program, and final amounts paid by UPS and any of its subsidiaries in the NYC Delivery Solutions program in 2015. You have also requested the number of tickets issued to UPS or any of its subsidiaries for violations of NYC Traffic Rule §4-08(e)(9) for parking in a bicycle lane in 2015 in the NYC Delivery Solutions program as well as the dollar amount paid by the United Parcel Service or any of its subsidiaries for violations of the NYC Traffic Rules §4-08(e)(9). The Records Access Officer informed you that under NYS Vehicle and Traffic Law §238(2) of the NYS Vehicle and Traffic Law.

"[A] notice of violation shall be served personally upon the operator of a motor vehicle who is present at the time of service [T]he notice of violation shall be served upon the owner of the motor vehicle if the operator is not present, by affixing such notice to said vehicle in a conspicuous place." You appealed from this denial.

The Department of Finance does not maintain parking records and payments based on all subsidiaries of companies as you have requested, so DOF would not be able to identify information regarding a company and "any of its subsidiaries" as you have requested in each category.

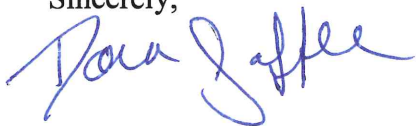
DOF can provide some of the information that you have requested, however, programming is required. Our IT department informs me that the estimated cost of the programming would be \$2,002, which includes approximately 22 hours of programming at \$91 per hour. The IT department also notes that the programming will not include any subsidiaries unless additional information is provided for our consideration. If you wish to proceed with this request, please let me know and you will be provided instructions for making the payment.

Please note that the Department of Finance makes readily available on its website at no cost an easy to use look up feature by ticket number, license plate number or parking violation number. The Department does not make publicly available, however, the ability for users to look up this information only by respondent name. In addition, DOF makes publicly available at no cost significant parking violations issuance information by year and by violation code and many other categories on the City's Open Data Portal. <https://opendata.cityofnewyork.us/>. To assist you, I checked the open data portal and DOF data sets for fiscal 2015 and 2016 for parking violation issuance are available, which cover the time period that is the subject of your request. There are numerous other data columns as part of these data sets that may also be helpful to you. The open data provided, however, does not provide information based on particular respondents and their subsidiaries as you have requested.

I have also reviewed your last request regarding whether violations of NYC Traffic Section § 4-08(e)(9) are accepted for a reduced fines as part of the NYC Delivery Solutions Stipulated Fine Program. Based on my inquiry as part of this appeal, I can inform you that violations of NYC Traffic Rule §4-08(e)(9) (or bike lane violations) are considered non-amenable under the NYC Delivery Solutions program. Violations issued in the amount of \$115 by are reduced to \$100 in the Stipulated Fine Program.

Pursuant to NYS Public Officers Law §89(4)(b), a denial of a FOIL appeal may be appealed to the Supreme Court in a proceeding for review pursuant to CPLR Article 78.

Sincerely,



Dara Jaffee
FOIL Appeals Officer

cc: Robert Freeman, NYS Committee on Open Government



NEW YORK CITY DEPARTMENT OF FINANCE

Commercial Parking Programs

Response Form

You must complete this form for your company to remain enrolled in the Fleet program. Fill out and return this form along with your payment and signed enrollment agreement by August 15, 2013. All fields must be filled in.

BUSINESS INFORMATION

FOFJY

United Parcel Service

Business Name

Business Address

643 West 43rd Street New York N.Y. 10036

Street Address

City

State

Zip

Mailing Address

643 W 43rd Street 7th Floor New York N.Y. 10036

Street Address

City

State

Zip

212-631-6374

Business Telephone Number

Company EIN

Check all that apply:

☐ Food☐ Floral☐ Contracting☐ Cleaning☐ Beverage☐ Furniture☐ Elevator☐ Dry cleaning / Laundry☐ Moving Company☒ Mail Delivery☐ Plumbing☐ Exterminator☒ Other: Small package delivery

CONTACT INFORMATION

Contact Name

First Name

Last Name

Title

Manager

United Parcel Service

Company Name

Broker

☐ Yes☒ No

Email Address

Contact Telephone Number

RESPONSE TO OUTSTANDING BALANCE DUE

My account is up to date

I plan to pay the outstanding balance due in full

AUG 22 2013
AUG

I have questions and/or wish to report discrepancies in my outstanding balance due:

Still waiting on an official response from letter dated 7/22/13 from Myranda Cordova (see attached). Need current file to see remaining amount owed.



NEW YORK CITY DEPARTMENT OF FINANCE

Fleet Program

APPLICATION FOR COMMERCIAL PARKING PROGRAMS

ENROLLMENT AGREEMENT

I, [REDACTED], hold the position of Manager,
NAME TITLE

am authorized to enroll my company, United Parcel Service, in a NYC Parking
COMPANY NAME

Program, which is a stipulated fine program for the payment of parking tickets for vehicles enrolled in the NYC Department of Finance's ("Finance") commercial fleet vehicle program.

I certify that our vehicles are used in the manner and parked for the time periods described in the attached application. My assertions in the attached application are incorporated into the terms of this agreement. The company will immediately notify Finance if any vehicle use changes.

By enrolling in this program, I agree to the following:

- 1. Enrollment:** Finance is authorized to enroll my company in a stipulated fine program, as determined by Finance to be appropriate for my company.
- 2. Stipulated Fines:** I agree to stipulated fines, as determined by Finance, which will be fixed percentages of violations issued in categories determined by Finance to be amenable, partially amenable and non-amenable. Finance may change any stipulated fine schedule without providing notice, and I agree to waive any claims and defenses based thereon. Any summons issued to an enrolled vehicle will be paid by the company according to the stipulated fine schedule upon this agreement taking effect. For companies newly enrolling in the stipulated fine program as of February 15, 2012, outstanding balances due for all judgment and non-judgment summonses as of the date of the application must be paid prior to the agreement taking effect. Any plates registered thereafter will also require payment prior to enrollment.
- 3. Billing:** Finance will issue electronic weekly fleet reports listing the number of violations issued, the violation categories and the amount due. Fleet reports can be sent by email or accessible online on a weekly basis. By execution of this agreement the enrollee consents that email or online notification by Finance shall be in full compliance of Finance's notification obligations whether imposed by rule or statute to give notice by any form of mail including but not limited to first class mail. If the company's email address changes, the company is obligated to notify Finance; failure to receive notifications from Finance because of failure to provide Finance with up-to-date e-mail addresses will not extend any time periods provided for in this agreement. Finance's notification obligations will be satisfied by e-mail notification to the last address provided.
- 4. Payment:** Payment of the amount indicated on the fleet reports must be made within 30 days of receipt. Finance may require electronic payment at its sole discretion.
- 5. Failure to pay:** Failure to pay timely shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in the amount of the original unreduced fine amount and the imposition of all penalties and interest provided for in the Finance rules and that such judgment will be entered in the Civil Court of the City of New York or any other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York. A default judgment may be avoided by payment.
- 6. Removal from the program:** A default judgment will result in removal of the company from (both NYC Delivery Solutions & Commercial Abatement) programs, as well as registration suspensions and towing of vehicles.

RECEIVED

AUG 22 2013

7. Waiver of Right to Contest Summonses: For any summonses issued to an enrolled vehicle, the Company waives all rights to a hearing, and agrees to accept the determinations as final. The summonses shall be deemed finally adjudicated and may not be challenged, contested or otherwise adjudicated by any party for any reason, either administratively or in court. This waiver applies to all summonses issued prior to this agreement that have not yet been adjudicated as well as those issued after.

This waiver includes any rights to challenge or otherwise contest any such violations that have become due and payable at the unreduced full amount due to the default provisions set forth herein. This waiver shall be final and irrevocable.

8. Voluntary Enrollment: Enrollment in a NYC Parking Program (both NYC Delivery Solutions & Commercial Abatement) is voluntary and may be terminated at any time by either party, for any reason. Cancellation shall become effective 10 days following the receipt of written notice from the canceling party.

Failure of Finance to enforce any of its rights upon default herein shall not be deemed a waiver of the right to do so upon any other such default

I agree to comply with audits from the Department of Finance for verification of mode of business. I further agree that if Finance determines that vehicles were not used as described in the attached application, the stipulated fine amounts will be amended based on the appropriate schedule of fines.

This agreement contains all terms and conditions agreed upon by the parties and may not be changed other than in writing signed by all parties. This agreement may not be changed orally.

This agreement shall be binding on our assigns and successors forever.

Name

Signature

Date

Title

8/20/13

Manager