Advocating for Transportation Network Company (TNC) Access

in Houston, Texas

A Case Study

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Beginning in 2014, the Houston disability community engaged in advocacy around the entry of transportation network companies (TNCs) into the Houston demand responsive (vehicle-for-hire) transportation market. Two companies, Lyft and Uber, began operating illegally in Houston in February of 2014. These TNCs used a smart phone app to dispatch drivers who use their personal vehicles to provide transportation services. TNCs maintained they had no obligation to provide equivalent service to persons with disabilities: They held they were not transportation companies, rather they were technology companies that offered a smart phone app for arranging rides between drivers and passengers.

Existing vehicle for hire (taxi and limousine) services resisted entry of transportation network companies (TNCs) into the Houston market. These traditional companies sought to ally with the disability community to support their efforts. The initial strategy of the disability community was to resist TNCs, although without an alliance with traditional vehicle‑for‑hire (VFH) companies. As the disability community gained a greater understanding that the technology‑driven services already had a strong toehold across the nation, community leaders chose to focus their efforts on ensuring full access of all VFH services, taxis and TNCs included.

With effective advocacy and negotiation over an 18-month period, Houston’s disability advocates secured significant advances in accessibility across all services for all persons with disabilities. The agreements reached in negotiations among the key entities involved were then used by the City of Houston to develop regulations governing performance.

The Houston approach operated successfully until May 2017 when local control of TNCs was eliminated with the passage of HB100 in the Texas legislature. Cities lost all regulatory authority over TNCs, the more stringent local background checks mandated in Houston and other cities were scaled back, and local requirements for wheelchair-accessible service were preempted. As this case study is written, negotiations are underway to secure voluntary continuation by TNCs of many of the features of the program implemented in Houston as a result of advocates’ work.

# Initial Advocacy Efforts

Houston advocates determined through contacts with other disability leaders across the nation that TNCs had already negatively impacted taxi service for members of the disability and aging community, particularly wheelchair users. People with disabilities in cities where TNCs operated experienced denial of service because of their disability, including refusals to transport passengers with dog guides and service animals and refusals to stow collapsible wheelchairs and other mobility devices in the trunks of vehicles. The TNCs entering the Houston market did not offer wheelchair accessible vehicles. With this knowledge, advocates began contacting Houston City Council members to express their concerns.

Despite community and VFH resistance, the Houston City Council was poised to acquiesce to the TNCs. In April 2014, Houston’s Department of Administrative and Regulatory Affairs proposed an ordinance that would permit Uber, Lyft and other online ride-sharing (TNC) services to operate as long as drivers met the same permitting and safety requirements as taxicab and limousine drivers. Disability advocates supported standardized permitting and safety requirements, but found it untenable that TNCs would enter the market without providing equal access. Advocates attended council meetings in large numbers and contacted council members; this, in combination with a strongly‑worded resolution from the Houston Commission on Disabilities and resistance from taxi and limo operators, caused the council to delay its vote.

# Houston Commission on Disabilities Resolution on TNCs

As advocates were making their concerns known about the lack of TNC access, in May 2014, the Houston Commission on Disabilities passed a resolution calling on Houston’s mayor and city council to ensure the needs of persons with disabilities were addressed if TNCs were to enter the Houston market legally. The resolution (2014-5-1 passed by the commission on May 8, 2014) included the following language:

* NOW, THEREFORE, BE IT RESOLVED, that the Houston Commission on Disabilities strongly encourages the Mayor, city council and other officials of the City of Houston to adopt an ordinance which ensures all people with disabilities receive equal access to demand responsive transportation, including transportation services offered through or facilitated by technology driven taxi services (transportation network companies) such as Uber and Lyft, without regard to disability, and that equal access includes prohibitions against denial of service based on disability, or based on the use of dog guides or service dogs, or based on the use of adaptive devices such as wheelchairs or other equipment.
* BE IT FURTHER RESOLVED, that the Houston Commission on Disabilities strongly encourages the Mayor, city council and other officials of the City of Houston to adopt ordinance language which ensures that wheelchair accessible vehicles will comprise an appropriate portion of any demand responsive fleet, including vehicles operated in association with technology driven taxi services (transportation network companies) such as Uber and Lyft.

Following presentation of the motion to the mayor and council members, city officials scheduled a two‑day meeting in July of representatives of the disability community, TNCs, existing traditional vehicle for hire services (taxis and limousines), two city council members and the city’s Administration and Regulatory Affairs department. The meeting set the stage for a task force which began meeting in August of 2014 to address accessible TNC operation.

# Houston City Ordinance and TNC Task Force

On August 6, 2014, the Houston City Council approved omnibus changes to Chapter 46 of the City’s Code of Ordinances, which regulates vehicles-for-hire. These changes expanded the City’s regulatory framework to include TNCs. Although not a complete success for advocates, the council did clearly articulate that each vehicle-for-hire company had the duty to provide consistent and equivalent service to individuals with disabilities.

The City Council also created the Houston Transportation Accessibility Taskforce to advise the council on the implementation of these requirements as well as to provide further recommendations on improving accessible transportation services in Houston. The Taskforce members that represented the disability community were Michelle Colvard, Sharon Ewing, Angela Wrigglesworth, Karen Petty, and Toby Cole. Other members were Chris Nakutis (Uber), Roman Martinez (Greater Houston Transportation Company), Duane Kamins (Houston Transportation Services), David Dillon (Carey of Houston), and Josh Sanders (Lyft). (Toby Cole chaired the task force. Vinh Nguyen and George Powers, from the Southwest ADA Center, were appointed as members of the Taskforce to provide policy guidance. Jay Stiteley, then director of the Mayor’s Office for People with Disabilities, met with and served as a resource for the task force. Nakutis of Uber and Martinez of Greater Houston Transportation Company were often represented by staff of their respective companies. During the negotiations, Lyft stopped operating in Houston, but Sanders remained on the Taskforce.)

The task force began its meetings in August 2014 and after meeting for almost one year voted on several resolutions presented to the city council and then used by the city’s Administration and Regulatory Affairs department in crafting regulations.

During the Taskforce meetings, parties representing the main competing interests attempted to reach a consensus on the requirements. Although access for persons with disabilities was the intended focus, economic issues dominated the discussions: traditional transportation companies (taxis, limousines, etc.) repeatedly expressed concern with the economic advantage that TNCs would have because TNCs were subject to fewer regulations. Regulatory actions could have important impacts on all of the services.

The task force addressed availability of Wheelchair Accessible Vans (WAVs). Disability advocates maintained that TNCs had an obligation to provide services to wheelchair users because the Americans with Disabilities Act requires equivalent service and local ordinances required taxi companies to have WAVs as part of their fleet. They reasoned that TNCs should have the same obligation as taxi companies. Taxi companies noted WAVs were more costly than sedans and inaccessible vans because of higher vehicle purchase cost and lower fuel efficiency because of the weight of lifts and other added equipment. They maintained the insurance for WAVs was far more expensive. Any entity not providing WAVs had a significant economic advantage over its competitors. The traditional transportation companies argued that TNCs had a duty to provide WAVs to the public and they sought to have the TNCs be burdened by the same operational costs. The task force discussed having the traditional VFH transportation companies lease or rent wheelchair accessible vehicles to the TNCs, but the traditional VHF companies rejected this option, seeing no advantage in supporting their competitors.

Other discussions concerned the TNC’s application and its accessibility, the right for passengers to be accompanied by service animals, driver training, accepting cash as a payment method and criminal background checks.

# Resolutions of Houston Transportation Accessibility Taskforce

The resolutions passed by the task force are summarized here:

* Equivalent service: The task force noted current city ordinance and the Americans with Disabilities Act required equivalent service to the disability community; the task force’s resolutions were not to be construed as modifying the definition of equivalent service; and did not in any way modify the transportation industries mandate under Federal or State law to provide services to people with disabilities that are equivalent to those of the general public (Resolution 1).
* Accessibility: The task force set two options for VFHs to meet their accessibility requirements. Option 1: Companies with at least 20 vehicles were to include at least 3 percent WAVs or at least 1 WAV (whichever was greater) within 12 months of the City’s codification of the plan. Each year thereafter for the next five years, the percentage would increase by an additional 1 percent until 8 percent of the fleets were wheelchair accessible. Option 2: Companies would be evaluated by outcome-based performance standards rather than a vehicle percentage mandate. TNCs could select this option to connect riders to a WAV option despite not owning vehicles or operating a fleet. Equivalent pricing was required. Response time would improve during each year of operation: an average pickup time of 40 minutes or less for completed WAV trips in year one; 30 minutes or less in year two; 20 minutes or less in year three. (Resolution 1)[[1]](#footnote-1)
* Prohibition of Segregation: VFH companies were prohibited from segregating accessible services (e.g., use of a promotional code or special phone number (Resolution 3).
* Addition of New Vehicles: All new vehicles added in 2018 or later by VFH companies with only one vehicle must be wheelchair accessible vehicles (Resolution 4).

Task force negotiations were primarily concerned with the duty to provide WAVs. Uber consistently took a non-committal position in which Uber representatives held that they either were not bound by the law or they (the representatives present) did not have the power to make the necessary decisions. For instance, on the issue of service animals, Uber initially held it was not responsible for ensuring that the drivers were compliant with the law, since the drivers are independent contractors. Toward the end of the negotiations Uber agreed to “look into” adopting a training and enforcement mechanism for ride denials to those with service animals. Most of these secondary issues were not discussed in depth. Uber refused to compromise on allowing alternative payment methods.

# Summary

In summary the Taskforce negotiations were between three sets of interests. Those that represented the disability community who sought to make the transportation services in the City more accessible. Traditional transportation providers used the accessibility requirements as a means to minimize the competitive advantage TNCs have. TNCs claimed that they were not transportation providers but a technology company; and thus they were not bound by the laws requiring equal access to transportation services. After a year of negotiations, the parties agreed to provide WAVs in each of their fleets and to take steps to make their respective transportation services more accessible. All entities chose to operate with option 2 outlined in Resolution 1.

# Lessons Learned.

There are several “lessons learned” from the Houston experience. The general public finds TNCs an improvement for travel and it is difficult to secure their support for accessibility. Similarly, those with disabilities who do not use wheelchairs or service animals are less likely to support access demands. Clearly, transportation network companies have been quite adept at securing the support of local elected officials—and now, elected state officials. Houston advocates had to put forth a concerted effort to overcome TNC resistance to access. They made individual contacts with city council members. They participated in council meetings. The resolution passed by the Houston Commission on Disabilities was crucial. TNCs held that existing ordinances and laws did not bind them. They see existing law (e.g., the ADA) and ordinances as being outdated and not applicable to their new business model. This makes negotiation even more challenging. The Houston success was short‑lived. TNCs sought relief by going directly to the State legislature and this will undoubtedly occur in other states.

1. ADA experts participating in the negotiations counseled against these options because they fell short of access mandated in law. Other task force members acknowledged the concern, but chose to proceed with the options from a purely pragmatic perspective. [↑](#footnote-ref-1)