

GHALEB IBRAHIM
REDACTED

Case No.

JATINDER CHEEMA
REDACTED

Declaratory Judgment: 30701

Other Injunction: 30704

AMITPAL SINGH,
REDACTED

Plaintiffs,

v.

**CITY OF MILWAUKEE, a municipal
Corporation,**

Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Introduction

1. This civil rights lawsuit seeks to vindicate the right of several entrepreneurs to earn an honest living free from anticompetitive, arbitrary, and irrational government regulation. Plaintiffs Ghaleb Ibrahim, Jatinder Cheema, and Amitpal Singh are experienced Milwaukee taxicab drivers who have driven taxicabs for Milwaukee taxicab companies. All would like to own their own taxicabs and drive for themselves. The City of Milwaukee, however, prevents them from owning their own taxicabs. They have sought to apply for taxicab permits and have been told they cannot. This is because the City arbitrarily caps the number of taxicab permits (with one permit per taxicab)

at approximately 321 and has not issued any new permits since 1991. Permits may be purchased from existing permit holders, but because the demand for owning cabs far outstrips the supply of permits, permits are very expensive and Plaintiffs cannot afford them. Plaintiffs should be able to obtain permits for their own entry-level taxicab businesses without regard to how many other permits exist. The city's anticompetitive cap, codified as Milwaukee City Code § 100-50(3)(a), violates Plaintiffs' right to earn a living, as protected by the Wisconsin Constitution's guarantees of due process and equal protection.

Jurisdiction and Venue

2. Plaintiffs bring this action under Wis. Stat. §§ 801.01, 806.04, and 813, as well as Article I, Sec. 1 of the Wisconsin Constitution.

3. This Court has jurisdiction over this action pursuant to Wis. Stat. § 753.03.

4. This Court has jurisdiction over Defendant the City of Milwaukee pursuant to Wis. Stat. § 801.05.

5. Venue in this action is proper in Milwaukee County pursuant to Wis. Stat. § 801.50(2).

The Parties

6. Ghaleb Ibrahim is a United States citizen who is domiciled in the City of Milwaukee, Wisconsin. He has lived in the Milwaukee area since the late 1980s and has driven Milwaukee taxicabs for the majority of that time, but has never himself held a taxicab owner's permit. When he has driven Milwaukee taxicabs he has always rented them from taxicab owners and permit holders. But, he would like to acquire his own permit so that he can own and drive his own taxicab.

7. Jatinder Cheema is a United States citizen who is domiciled in the City of Milwaukee, Wisconsin. He has driven taxicabs in Milwaukee since 2002, but has never himself held a taxicab

owner's permit. He currently rents a taxicab from a Milwaukee taxicab owner and permit holder, driving the night shift of that cab. But, he would like to acquire his own permit so that he can own and drive his own taxicab.

8. Amitpal Singh is a United States citizen who is domiciled in the City of Milwaukee, Wisconsin. He drives a Milwaukee taxicab by renting a cab from a permit holder, but has never himself held a taxicab owner's permit. He would like to acquire his own permit so that he can own and drive his own taxicab.

9. Defendant the City of Milwaukee is a municipal corporation organized under the laws of the State of Wisconsin.

STATEMENT OF FACTS

Plaintiffs' Backgrounds and Taxicab Experience

10. Plaintiff Ghaleb Ibrahim came to the United States from Jordan in the late 1970s, without much more to his name than big dreams of success in a new country. He attended engineering school in Buffalo, New York, met his wife in the U.S. and raised a family, finally settling in Milwaukee as his American home. In the late 1980s, he began driving a Milwaukee taxi. Taxi driving gave Ghaleb a feeling of freedom and the opportunity to meet all kinds of people who live in and visit the city. He considers driving a matter of public service, making sure people are able to get affordable, reliable transportation.

11. Taxicab drivers who do not own the vehicles they drive typically "rent" the vehicles from the owners on a weekly basis. In such an arrangement, a driver's weekly rental payment covers use of the vehicle, dispatch fees, insurance, maintenance, and other expenses. In addition to this, a driver must pay for his own gas. Money that a driver receives in fares over the course of the week first goes to pay rent and gas, with the driver keeping whatever is left over as his own income.

12. When Ghaleb drove a taxicab in Milwaukee he rented it in this manner. At first his rents were affordable. As taxicab rents grew higher and higher in recent years, however, he made the decision to get out of taxicab driving. He currently drives a limousine licensed by the City of Milwaukee. However, he would like to acquire a taxicab permit and own his own Milwaukee taxicab. He would be able to do so if it were not for the City's cap on the number of permits.

13. Plaintiff Jatinder Cheema came to America from India in 1981 looking for a better life. He worked in a garment warehouse in New York until 1986 when he started driving limousines. Eventually, he moved to Wisconsin and in 2002 was able to find a Milwaukee cab company that would rent him one of its cabs for the nightshift. He has been driving a nightshift cab ever since. He would like to acquire a taxicab permit and own his own Milwaukee taxicab. He would be able to do so if it were not for the City's cap on the number of permits.

14. Plaintiff Amitpal Singh came to America from India in 2004, following his father who had earlier fled India to escape religious persecution and had been granted asylum. He drives a Milwaukee taxicab and would like to own one. He has had to pay rent in excess of \$1,000 per week, plus gas. He would like to acquire a taxicab permit and own his own Milwaukee taxicab. He would be able to do so if it were not for the City's cap on the number of permits.

The City's Adoption of the Taxicab Permit Cap

15. For two decades, the City has placed a cap on the number of taxicab permits. Milwaukee City Code § 100-50(3)(a) states "Effective January 1, 1992, no new public passenger vehicle permits for taxicabs may be issued." The only exceptions are when a permit holder retains its permit but changes its form of business (such as through incorporation), or when one permit holder transfers his permit to another. Milwaukee City Code § 100-50(3)(a)-1, (a)-2.

16. The Milwaukee Common Council enacted what is now § 100-50(3)(a) in December 1991. In compliance with the provision, the City has not issued any taxicab permits since 1991, other than in response to a change in form of business or a permit transfer. The previous system had no cap.

17. Milwaukee aldermen debated the new permit cap before the Special Utilities and Licenses Committee, and the full Common Council, in December 1991. In those hearings, the chief supporter of imposing a cap on the number of taxicabs, Aldermen Thomas Nardelli, articulated no reason in favor of the new ordinance other than that the City would find it easier to administer taxicab licenses. This is because it would no longer have to hold an annual license renewal hearing, which was the previous system's method of reviewing license applications.

18. No aldermen articulated any public health or safety reason for the permit cap in those hearings in December 1991.

Inability to Get Permits

19. A person who wants to enter into the Milwaukee taxicab market cannot obtain a new taxicab permit. Because of the cap on the number of permits, any request for a new permit will be denied. This is true regardless of how safe one's vehicles are, how much insurance one has, or how clean one's driving record is.

20. Plaintiffs have asked if they can apply for new permits, including as alleged in paragraph 36, *infra*, and have been told an application would be futile.

21. There are only approximately 321 taxicab permits. Each permit allows one vehicle to operate as a taxicab.

22. The driving of a taxicab, or another public passenger vehicle such as a limousine, is licensed separately from the vehicle's permit. Drivers have to submit to a background check of their

driving history, be fingerprinted, and, for taxicab drivers, pass a test “regarding knowledge of city streets, major buildings, facilities and city regulations,” among other requirements. Milwaukee City Code § 100-54(2)(f-1). This lawsuit challenges none of these requirements.

23. Indeed, in the past Plaintiffs have all met the requirements listed in Paragraph 22 and have been issued taxicab driver’s licenses.

24. If a person wants to start a taxicab business that can operate in Milwaukee, he must purchase permits (one for each vehicle) from an existing permit holder.

25. Section 100-5(3)(a) creates two classes: (a) Holders of permits issued before 1992 (either the original holders or people who have purchased the right to stand in the shoes of the original holders) and (b) people who do not hold permits issued before 1992.

26. Only people who hold permits issued before 1992, or who stand in their shoes, may own and operate a taxi business in Milwaukee.

27. By the express terms of Section 100-5(3)(a), the size of the class of people allowed to operate a taxi business—that is, the number of taxi permits—may never increase.

The Harmful Consequences of the Cap

28. The ratio of cabs to residents in Milwaukee is approximately 1 cab for every 1,850 residents, far higher than most comparable American cities. For example, the ratio in Seattle, Washington is 1 cab for every 935 residents; Minneapolis, Minnesota: 1 cab for every 550 residents; Denver, Colorado: 1 cab for every 480 residents,

29. On information and belief, the current market price of a Milwaukee taxicab permit is approximately \$150,000.

30. One individual, a Milwaukee County supervisor, has acquired approximately half the permits.

31. Because of the arbitrary and artificial cap on the number of permits, the market price of a taxicab permit is more than the average price of a Milwaukee single-family home.

32. Thus, to operate a one-vehicle taxicab business an entrepreneur must find an existing permit holder who wants to sell his or her permit, and then purchase it for approximately \$150,000. This is in addition to all start-up costs an entrepreneur must spend to start the business, such as the price of a vehicle, a meter, a dispatch service, and insurance.

33. In comparison, the fee the city charges to actually register a permit when it is transferred is approximately \$175.00.

34. Because of the limited competition in the Milwaukee taxicab market, individuals who drive taxicabs, but do not own their own cab, make very low wages. For a typical taxicab driver, including Plaintiffs when they have driven cabs, only a small fraction of a week's fares is left over for their own personal income.

35. Milwaukee citizens of all income levels, along with visitors to the city, depend upon taxicabs for their transportation. In addition to the harm Plaintiffs suffer, the artificial scarcity of cabs harms Milwaukee citizens and visitors through limiting competition in the taxicab industry and creating inferior customer service—including longer wait times for cabs and a lack of available cabs in modest and minority neighborhoods.

HARM TO PLAINTIFFS

36. On April 28, 2011 Plaintiff Ghaleb Ibrahim, on his behalf and on behalf of the other Plaintiffs, inquired in person at the offices of the City of Milwaukee's Office of the City Clerk License Division as to whether, despite § 100-50(3)(a)'s explicit language, there was any way that he and the other Plaintiffs could each apply for new taxicab permits that were not presently held by someone else. A representative of the License Division stated that he could not apply for and receive

taxicab permits unless existing permit holders transferred permits to him, as the plain language of § 100-50(3)(a) states. Mr. Ibrahim then said that when he began driving a Milwaukee taxicab over twenty years ago a person could simply apply for a permit without purchasing one from an existing holder. The representative said that was no longer the law and that Mr. Ibrahim would have to buy a permit from an existing holder if he wanted to own and operate a taxicab.

37. Each of the Plaintiffs has the financial means to start his own taxicab businesses but for the requirement that he purchase an existing taxicab permit.

38. But for the requirement that they acquire a taxicab permit issued prior to January 1, 1992, each of the Plaintiffs would start and operate his own taxicab business.

39. The city official's statements to Plaintiff Ibrahim on April 28, 2011 denied Plaintiffs the opportunity to apply for a taxicab permit and start a taxicab business in Milwaukee.

40. The ongoing existence of § 100-50(3)(a), separately from the city official's statements on April 28, 2011, continually denies Plaintiffs the opportunity to apply for a taxicab permit and start a taxicab business in Milwaukee.

41. Because, and only because, of the City's cap on the number of taxicab permits, Plaintiffs cannot start their own taxicab businesses.

COMPLIANCE WITH NOTICE OF CLAIM REQUIREMENT

42. Plaintiffs have complied with the provisions of Wis. Stat. § 893.80 in providing notice to the Defendant City of Milwaukee for the claims presented herein.

43. Plaintiffs filed a Notice of Claim and Claim ("Notice") with the City Clerk of the City of Milwaukee on May 2, 2011, pursuant to Wis. Stat. § 893.80. The Notice informed the City that the City had injured Plaintiffs through refusing to allow Plaintiffs to apply for, and receive, new taxicab permits, both through the actions described above in paragraph 36 and through the force of §

100-50(3)(a) alone. The Notice demanded that the City repeal § 100-50(3)(a) and (b), and replace these provisions with language that allows persons, including Plaintiffs, who do not presently have public passenger vehicle permits for taxicabs, but otherwise qualify under the City's regulations, to apply for and be issued new permits. It also demanded nominal damages in the amount of \$1. A copy of the filed Notice is attached as Exhibit A.

44. The City did not respond to Plaintiffs within 120 days of the filing of the Notice of Claim and Claim with the City Clerk. This suit is brought within the time allowed under Wis. Stat. § 893.80(1g).

**FIRST CLAIM FOR RELIEF: VIOLATION OF ARTICLE I, SEC. 1 OF THE
WISCONSIN CONSTITUTION—SUBSTANTIVE DUE PROCESS**

45. Plaintiffs incorporate herein by reference the allegations made in ¶¶ 1 through 44.

46. The City of Milwaukee, through § 100-50(3)(a) of the Milwaukee City Code, arbitrarily and irrationally prevents more than 321 taxicabs from operating in the city and prevents Plaintiffs from applying for new taxicab permits.

47. The anticompetitive, arbitrary, and irrational cap on the number of permits protects existing permit holders from competition by denying Plaintiffs the opportunity to start their own taxicab businesses.

48. Article I, Sec. 1 of the Wisconsin Constitution, through its guarantee of substantive due process, protects Plaintiffs' right to earn a living free from anticompetitive, arbitrary, or irrational regulations.

49. The anticompetitive, arbitrary, and irrational cap violates Article I, Sec. 1 because it denies Plaintiffs their right to earn a living and does not further a legitimate governmental interest.

50. Unless the City is permanently enjoined from committing the above-described violations of the Wisconsin Constitution, Plaintiffs will continue to suffer great and irreparable harm.

**SECOND CLAIM FOR RELIEF: VIOLATION OF ARTICLE I, SEC. 1 OF THE
WISCONSIN CONSTITUTION—EQUAL PROTECTION**

51. Plaintiffs incorporate herein by reference the allegations made in ¶¶ 1 through 50.

52. Section 100-50(3)(a) creates an anticompetitive, arbitrary, and irrational distinction between those who do not hold taxicab permits, and those who held permits before January 1, 1992 or who, through the subsequent transfer of a permit, stand in the shoes of those original holders.

53. The only way that Plaintiffs can start their own taxicab businesses is to purchase taxicab permits, at the cost of approximately \$150,000 per permit, from existing permit holders.

54. As a direct result of this anticompetitive, arbitrary, and irrational distinction in who can own a taxicab and who cannot, Plaintiffs are prevented from owning their own taxicab businesses.

55. Preventing Plaintiffs from owning their own taxicab businesses, but allowing those who happen to have permits that were issued before January 1, 1992 is arbitrary and irrational and violates the guarantee of equal protection found in Article I, Sec. 1 of the Wisconsin Constitution. There is no reasonable basis for the classification and it is anticompetitive.

56. The classification between those who hold permits issued before January 1, 1992, or who stand in their shoes, and those who do not hold those permits is not based upon substantial distinctions which make each class really different from each other.

57. The classification of those who hold permits issued before January 1, 1992, or who stand in their shoes, and those who do not is not germane to any legitimate purpose of Milwaukee's taxi licensing law.

58. The classification of those who hold permits issued before January 1, 1992, or who stand in their shoes, and those who do not is not based upon existing circumstances and precludes addition to the numbers included within the class of permit holders.

59. The characteristics of those who hold permits issued before January 1, 1992, or who stand in their shoes, are not so far different from those who do not as to reasonably suggest the propriety, having regard to the public good, of substantially different legislation.

60. Unless the City is permanently enjoined from committing the above-described violations of the Wisconsin Constitution, Plaintiffs will continue to suffer great and irreparable harm.

RELIEF SOUGHT

WHEREFORE, Plaintiffs request that this Court:

- A. Enter a declaratory judgment that the City of Milwaukee has violated Article I, Section 1 of the Wisconsin Constitution through denying Plaintiffs the opportunity to apply for new taxicab permits;
- B. Enter an order permanently enjoining the City of Milwaukee from denying an application for a taxicab permit because of the number of taxicab permits that already exist;
- C. Award Plaintiffs nominal damages in the amount of one dollar;
- D. Award Plaintiffs their reasonable costs and attorneys' fees;
- E. Award Plaintiffs any other relief as is appropriate under the circumstances.

Dated this 27th day of September, 2011.

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