



Media Release: Friday, September 12, 2014, 4:30 p.m.

Regional Municipality of Waterloo

Licensing and Retail Committee Agenda

Agenda

Wednesday, September 17, 2014

5:00 p.m.

Regional Council Chamber

150 Frederick Street, Kitchener, Ontario

- 1. Declarations of Pecuniary Interest Under The Municipal Conflict of Interest Act**
- 2. Delegations**
 - a) [CR-CLK-LIC-14-002](#), Salvage By-law
 - i. Residents of Bluerock Crescent
 - ii. Combined Metal Industries
- 3. Reports – Corporate Resources**
 - a) [CR-CLK-LIC-14-002](#), Salvage By-law 1
 - b) [CR-CLK-LIC-14-003](#), Amendment to the Taxi Meter By-law 6
- 4. Information/Correspondence**
 - a) Regional Clerk Licensing Hearings Minutes - [April 2, 2014](#) 10
 - b) Regional Clerk Licensing Hearings Minutes - [April 4, 2014](#) 20
- 5. Other Business**
- 6. Adjourn**



Report: CR-CLK-LIC-14-002

Region of Waterloo
Corporate Resources
Council and Administrative Services
Licensing and Enforcement Services

To: Chair G. Lorentz and Members of the Licensing and Retail Committee

Date: September 17, 2014

File Code: L18-60

Subject: **Salvage By-law**

Recommendation:

For information;

Summary:

A Delegation of residents from Cambridge will be presenting their concerns about the business operations and level of noise from Combined Metal Industries, a licensed Salvage Yard.

Currently the salvage operation complies with the Salvage By-law.

Report:

1) Background:

The Region currently licenses 21 Salvage Yards and 2 Salvage Shops. All licensed Salvage Yards and Shops are in compliance with the current Salvage Yard By-law.

Section 20 of the Salvage Yard By-law outlines days and hours of operation if the Salvage Yard is either adjacent to or within 20 meters of a residential property. Section 20 of the by-law is contained in Appendix "A" to this report.

2) Noise Complaint

In August 2013, the Region's Licensing and Enforcement Services were contacted by

the residents of Bluerock Crescent in Cambridge. Residents were concerned about the business hours, days of operation and level of noise from Combined Metal Industries (CMI), 454 Dobbie Drive, Cambridge.

The residents indicated that the business hours, days of operation and level of noise were tolerable while the business operated as ABC Metal Recycling Corporation.

A licensed Salvage Yard business has operated at 454 Dobbie Drive, Cambridge, since February 2002. The operation changed ownership in March 2008 and has been inspected by Licensing and Enforcement staff annually with no indications of contravention of the by-law. The business operation is in compliance with local zoning by-laws and is in compliance with all fire code requirements and provincial environmental protection regulations.

Staff met with the residents in October 2013. The residents provided an extensive overview of the situation and provided video and audio recordings of the operation at various times during the day and evening. Staff noted the noise level of the operation was evident in the recordings.

In November 2013 the residents provided a signed petition requesting the following:

“The residents neighbouring CMI Metals Inc. on Dobbie Drive Cambridge, hereby petition the Region of Waterloo Licensing Board to enforce the By law 05-063 Section 20 to the operation of CMI Metals. That the hours of operation be restricted to 7 a.m. to 7 p.m. Monday through Friday and Saturday or Sunday 8 a.m. to 5 p.m.”.

Staff investigated the complaint and determined that the business is located approximately 123 meters from the closest residential property (measuring from the property line of the salvage yard and the property line of the nearest residential property) and is therefore exempt from the requirements of section 20 of the Salvage Yard By-law. A map of the area is attached as Appendix “B” to this Report. Staff also noted that the by-law does not control noise via measurable decibel levels but rather by distance from residential properties.

Staff met with representatives of CMI in February 2014. CMI indicated they are awaiting approval of a building permit that would enclose the majority of their operation in a building which would mitigate all of the issues the residents were experiencing. They indicated that they were willing to increase the height of their rear concrete fence that faces the residential properties as an interim measure to mitigate any noise. The representatives from CMI made it clear to staff that they knew the business operation was exempt from subsections 20(1), (2) and (3) of the current by-law but indicated they wished to be “good neighbours”.

3) Conclusion:

After investigating the matter and consulting with Legal Services, it was concluded that CMI's business operations are in compliance with the current Salvage Yard By-law and are exempt from subsections 20(1), (2) and (3).

Financial Implications:

Nil

Other Department Consultations/Concurrence:

Legal Services has been consulted.

Attachments

Attachment "A": Salvage Yard By-law 05-063 section 20

Attachment "B": Map 454 Dobbie Drive, Cambridge

Prepared By: Angelo Apfelbaum, Manager, Licensing and Enforcement Services

Approved By: Gary Sosnoski, Commissioner, Corporate Resources

Appendix "A"

"20. (1) No person who holds a Salvage Yard Licence for a Salvage Yard that is adjacent to or within 20 meters of a property that is lawfully used for a residential purpose shall operate or permit the operation of a crusher, loader, forklift, crane, truck or other equipment except:

(i) between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Friday; and

(ii) between the hours of 8:00 a.m. and 5:00 p.m. on Saturday

(2) Notwithstanding subsection (1) of this section, a person who holds a Salvage Yard Licence for a Salvage Yard that is adjacent to or within 20 metres of a property that is lawfully used for a residential purpose may designate Sunday on the person's application or renewal for a Salvage Yard Licence as the person's preferred day of work and thereafter the person may only operate or permit the operation of a crusher, loader, forklift, crane, truck or other equipment.

(i) between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Friday; and

(ii) between the hours of 8:00 a.m. and 5:00 p.m. on Sunday.

(3) Notwithstanding subsection (1) and (2) of this section, no person who holds a Salvage Yard Licence for a Salvage Yard that is adjacent to or within 20 metres of a property that is lawfully used for a residential purpose shall operate or permit the operation of a crusher, loader, forklift, crane, truck or other equipment on a statutory holiday."

“Appendix B”





Report: CR-CLK-LIC-14-003

Region of Waterloo
Corporate Resources
Council and Administrative Services
Licensing and Enforcement Services

To: Chair G. Lorentz and Members of the Licensing and Retail Committee

Date: September 17, 2014

File Code: L18-30

Subject: Amendment to the Taxi Meter By-law

Recommendation:

That The Regional Municipality of Waterloo amend the Taxi Meter By-law, to change the license renewal for drivers and owners to their birthdates, in accordance with By-law attachment and appendix "A" to Report CR-CLK-LIC-14-003, dated September 17, 2014.

Summary:

Nil.

Report:

The current Taxi Meter By-law requires Taxi Brokers, Owners and Drivers to renew their licenses annually by January 31. There are over 800 Owners and Drivers with the majority of these licenses renewed within the last two weeks of January. This causes customer service concerns for the license holders and an overwhelming administrative impact for staff issuing these licenses. Long lines increase the possibility of clerical errors and rush the review process for each license applicant and approval by the manager.

Staff are recommending Taxi Owners and Drivers renew on their birthday. This will spread the license renewals for owners and drivers over a 12 month period and reduce administrative impacts and improve customer service. This will also allow for a more thorough review of each applicant for approval by the manager.

Taxi Broker Licenses will not be impacted by this change. Brokers will continue to remain on the current cycle of a January 31 renewal date. There are only 5 Broker Licenses issued annually.

A meeting between staff and the taxi Association took place on August 22, 2014 to discuss the by-law amendment. A Public Notice indicating an intention to amend the by-law was posted on August 27, 2014 and published in community newspapers.

Corporate Strategic Plan:

This by-law amendment does not directly impact any action in the Strategic Plan, however, the proposed amendment is in keeping with Focus Area 5, Service Excellence. The proposal will increase customer service by reducing wait times at the service counter and provide for increased time to review and approve applications.

Financial Implications:

The Region collects approximately \$210,000 annually through licensing fees, the majority of which comes from taxi license renewals. The fees would now be collected over a 12 month period reducing bank processing time and reducing administrative overtime during taxi license renewals

Other Department Consultations/Concurrence:

Legal Services assisted in the preparation of this Report.

Attachments

Appendix "A" – Amendment to Taxi Meter By-law

Prepared By: Angelo Apfelbaum, Manager, Licensing and Enforcement Services

Approved By: Kris Fletcher, Director, Council and Administrative Services

Attachment "A"

By-Law Number 14-xxx

of

The Regional Municipality of Waterloo

A By-law to Amend By-law 04-069, A By-law to License, Regulate and Govern Brokers, Owners and Drivers of Taxi-Cabs Equipped with Taxi-Cab Meters within the Regional Municipality of Waterloo, as Amended (Amend Licence Renewal Dates)

The Council of the Regional Municipality of Waterloo enacts as follows:

1. That section 1 of By-Law 04-069, A By-law to License, Regulate and Govern Brokers, Owners and Drivers of Taxi-Cabs Equipped with Taxi-Cab Meters within The Regional Municipality of Waterloo, As Amended, is amended by adding the following subsection:

“(9.1) “holiday” means Saturday, Sunday, New Year’s Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, the Civic Monday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day and any other day fixed as a holiday by proclamation of the Governor General of Canada or Lieutenant Governor of Ontario;”
2. That section 30 of By-Law 04-069, A By-law to License, Regulate and Govern Brokers, Owners and Drivers of Taxi-Cabs Equipped with Taxi-Cab Meters within The Regional Municipality of Waterloo, As Amended, be deleted and replaced with the following:

“30.

 - (1) Every Taxi-cab Broker Licence issued under this By-law shall expire at 4:00 p.m. on the 31st day of January of each year.
 - (2) Every Taxi-cab Owner Licence, Accessible Taxi-cab Owner Licence, Taxi-cab Driver Licence, Accessible Taxi-cab Driver Licence, Taxi-cab Vehicle Licence and Accessible Taxi-cab Vehicle Licence shall expire at 4:00 p.m. on the licence holder’s date of birth of each year.
 - (3) Notwithstanding subsections (1) and (2) of this section, if January 31st or the licence holder’s date of birth, as applicable, falls on a holiday, then the licence shall expire at 4:00 p.m. on the following day that is not a holiday.”
3. This By-Law shall come into force and effect on January 1, 2015.

By-law read a first, second and third time and finally passed in the Council Chamber in the Regional Municipality of Waterloo this 8th day of October, A.D., 2014.

Regional Clerk

Regional Chair



Regional Municipality of Waterloo

Regional Clerk Licensing Hearings

Minutes

Wednesday, April 2, 2014

1:00 p.m.

Room 216

150 Frederick Street, Kitchener, Ontario

Present were: K. Fletcher, A. Apfelbaum, T. Brubacher, P. Walter, R. Angad*, K. Sowa*, A. Capa*, T. Araujo*, F. Jahangirnia*, R. Vogel*, M. Kosorich*, and Z. Medjesi*

1. Licensing Hearing Opening Address – Regional Clerk, Kris Fletcher

*R. Angad and K. Sowa entered the hearing at 1:00 p.m.

Kris Fletcher, Regional Clerk, provided opening comments regarding the purpose of the hearings.

2. Angad, Roopnarine – Taxi Driver, Waterloo Taxi #6390

K. Fletcher provided an overview of the hearing process for R. Angad.

Evidence – A. Apfelbaum

Angelo Apfelbaum, Manager, Licensing and Enforcement, submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

A. Apfelbaum noted that R. Angad's driving record showed that his Ontario driver's license was suspended for a .05 blood alcohol content on May 18, 2013 until May 21, 2013. He stated that Licensing and Enforcement staff were not aware of the suspension until R. Angad's abstract was reviewed at the time of renewal. The taxi cab by-law states that drivers must notify the Clerk within six days of a change in information and 1607075

return a taxi-cab driver license within twenty-four hours of a provincial license being suspended.

In response to questions from K. Fletcher, A. Apfelbaum stated that this is a charge under the Highway Traffic Act and that R. Angad was issued a taxi cab license on January 15, 2014.

Reply evidence from defendant

Tim Brubacher, Hearing Clerk, swore in R. Angad.

R. Angad explained that he was driving a private car at the time. He stated that he had only had two drinks but was very tired from working and driving. He was stopped on a street near his house when he swerved while reaching for a water bottle. He noted that this had never happened before and that he has learned the affect that being tired can have on him. R. Angad stated that he had informed the owner of his cab of the suspension and he did not drive during the suspension.

Closing Remarks and Recommendation – A. Apfelbaum

Based on the three day suspension, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of three (3) months to July 1, 2014, during which time monthly abstract checks will be conducted and the driver shall obey all the provisions of the Highway Traffic Act during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of their taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #6390, Roopnarine Angad:

- a) Roopnarine Angad, the license holder, have his taxi-cab driver's license placed on probation for a period of three (3) months to July 1, 2014, during which time monthly abstract checks will be conducted; and
- b) the license holder, for the period to July 1, 2014, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab.

K. Fletcher stated that this decision was based on the evidence provided by staff and the sincerity of R. Angad.

K. Fletcher outlined the appeal process for R. Angad.

*R. Angad and K. Sowa left the hearing at 1:19 p.m.

3. Capa, Antonio – Taxi Driver, Waterloo Taxi #6007

*A. Capa and T. Araujo entered the hearing at 1:20 p.m.

K. Fletcher provided an overview of the hearing process for A. Capa.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of the five actions noted in the defendant's extended driving record

Exhibit C: A copy of a warning letter issued to A. Capa on February 15, 2013 for five actions and five demerit points

He noted that A. Capa has five demerits and five actions under the Highway Traffic Act. He explained that four of the offences are for speeding and the fifth was for disobeying a legal sign.

Reply evidence from defendant

T. Brubacher swore in A. Capa.

A. Capa stated that two of the tickets were received shortly after a reduction in the speed limit. He explained that he needs his job for financial reasons. In response to a question from K. Fletcher he stated that all of the offences were while he was driving a taxi cab and two of them were while he was carrying passengers.

Closing Remarks and Recommendation – A. Apfelbaum

Based on the five actions and five demerit points, and the guidelines established by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of ten (10) months to February 1, 2015, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of his taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #6007, Antonio Capa:

- a) Antonio Capa, the license holder, have his taxi-cab driver's license placed on probation for a period of ten (10) months to February 1, 2015, during which time monthly abstract checks will be conducted;

- b) the license holder, for the period to February 1, 2015, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab; and
- c) the license holder, for the period to February 1, 2015 shall not receive any additional demerit points under the "Highway Traffic Act."

K. Fletcher stated that this decision was based on agreement with the staff recommendation. She noted that she is very concerned that passengers were in the car during the time of offences.

K. Fletcher outlined the appeal process for A. Capa.

*A. Capa and T. Araujo left the hearing at 1:38 p.m.

4. Jahangirnia, Farhad - Taxi Driver, Waterloo Taxi #5759

*F. Jahangirnia entered the hearing at 1:39 p.m.

K. Fletcher provided an overview of the hearing process for F. Jahangirnia.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: A Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of the four actions noted in the defendant's extended driving record.

A. Apfelbaum stated that F. Jahangirnia's extended driving record contains four actions and three demerit points. He noted that one of the offences was for travelling 149 km/hour in a 100 km/hour zone that was reduced to 129 km/hour

Reply evidence from defendant

T. Brubacher swore in F. Jahangirnia.

F. Jahangirnia stated that the 129 km/hour ticket was received in his wife's car when he was driving his son to an exam in Toronto. The other two speeding tickets were in a taxi cab with no passengers. He noted that the first two offences are almost two years old and his record has improved since.

Closing Remarks and Recommendation – A. Apfelbaum

A. Apfelbaum noted that F. Jahangirnia driver's record has been clean recently.

Based on the guidelines established by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of seven (7) months to November 1, 2014, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of their taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #5759, Farhad Jahangirnia:

- a) Farhad Jahangirnia, the license holder, have his taxi-cab driver's license placed on probation for a period of seven (7) months to November 1, 2014, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to November 1, 2014, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab; and
- c) the license holder, for the period to November 1, 2014 shall not receive any additional demerit points under the "Highway Traffic Act."

K. Fletcher noted that this decision was based on support for the staff recommendation and previous precedents.

K. Fletcher outlined the appeal process for F. Jahangirnia.

*F. Jahangirnia left the hearing at 1:53 p.m.

5. Vogel, Richard - Taxi Driver, Waterloo Taxi #5872

*R. Vogel entered the hearing at 2:08 p.m.

K. Fletcher provided an overview of the hearing process for R. Vogel.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of three actions noted in the defendant's extended driving record.

A. Apfelbaum stated that there are three actions and four demerit points on R. Vogel's extended driving record. He noted that two of the actions are for failure to wear his 1607075

seatbelt and the other is for failure to provide insurance. In response to a question from K. Fletcher, A. Apfelbaum explained that it is not standard to only be charged for failure to provide insurance as a police officer requires a reason to stop a driver to ask for insurance.

Reply evidence from defendant

T. Brubacher swore in R. Vogel.

R. Vogel stated that the action for failing to provide insurance occurred in his personal car. He was pulled over when he attempted to stop at an intersection that was dusty due to construction and slid into the intersection. He noted that he was not charged for failing to stop at that time.

He explained that the other two offences were in a taxi cab but he noted that one was a very short trip. There were no passengers in the taxi cab on either occasion.

Closing Remarks and Recommendation – A. Apfelbaum

A. Apfelbaum noted, as a mitigating factor, that R. Vogel's record prior to the most recent check has been good and there is no record of previous warnings or suspensions.

Based on precedent established by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of seven (7) months to November 1, 2014, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of their taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #5872, Richard Vogel:

- a) Richard Vogel, the license holder, have his taxi-cab driver's license placed on probation for a period of six (6) months to October 1, 2014, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to October 1, 2014, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab; and
- c) the license holder, for the period to October 1, 2014 shall not receive any additional demerit points under the "Highway Traffic Act."

K. Fletcher noted she was reducing the staff recommendation due to the insurance card issue occurring in his personal car and being acquired without another offense.

K. Fletcher outlined the appeal process for R. Vogel.

*R. Vogel left the hearing at 2:33 p.m.

6. Kosorich, Mile – Taxi Owner / Driver, City Cabs #6043

*M. Kosorich entered the hearing at 2:46 p.m.

K. Fletcher provided an overview of the hearing process for M. Kosorich.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of the five actions noted in the defendant's extended driving record

Exhibit C: Copy of a letter sent to M. Kosorich outlining a decision from the Licensing and Retail Committee dated May 9, 2012

A. Apfelbaum stated that M. Kosorich's extended driving record contains five actions and three demerit points. He noted that of the five actions three are for speeding, one is for disobeying a traffic signal, and failing to stop at an intersection. He explained M. Kosorich was on probation from a previous Licensing and Retail Committee hearing until January 9, 2013.

In response to a question from K. Fletcher, A. Apfelbaum noted that the demerit points were received for failing to stop at a red light on April 12, 2011.

Reply evidence from defendant

T. Brubacher swore in M. Kosorich.

M. Kosorich stated that his record looks ugly but he is not really a speeder. He regularly watches his speedometer and had no issues before these ones. He confirmed that all of the offences were in a taxi cab and only one of the speeding tickets were with a passenger. He has been very careful since.

He explained that regarding the latest offence for failure to stop at an intersection, he had stopped behind the line at a point where the police officer could not see where he stopped. He stated that when he received the disobeying a traffic signal he had been on medication but was driving very slow. He noted that it was not a dangerous accident.

Since receiving the speeding tickets he has changed cars and now regularly checks the speedometer.

Closing Remarks and Recommendation – A. Apfelbaum

Based on precedent established by the Licensing and Retail Committee and the previous probation period set by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of eight (8) months to December 1, 2014, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of their taxi license shall be made.

A. Apfelbaum noted that the 2011 charges and the demerit points will be coming off at the end of 2014.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #6043, Mile Kosorich:

- a) Mile Kosorich, the license holder, have his taxi-cab driver's license placed on probation for a period of eight (8) months to December 1, 2014, during which time monthly abstract checks will be conducted;
- b) that the monthly abstract checks continue to be conducted for a period of twelve (12) months to April 1, 2015;
- c) the license holder, for the period to April 1, 2015, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab;
- d) the license holder, for the period to April 1, 2015 shall not receive any additional demerit points under the "Highway Traffic Act;" and
- e) should the license holder receive any additional demerit points under the "Highway Traffic Act;" or fail to obey all provisions of the "Highway Traffic Act" while operating a taxi-cab for the period to April 1, 2015, the licence holder shall be required to appear before a hearing of the Licensing and Retail Committee.

K. Fletcher noted that this decision is based on agreeing with the staff recommendation, the previous decision by the Licensing and Retail Committee, and the Region's responsibility to passengers.

K. Fletcher outlined the appeal process for M. Kosorich.

*M. Kosorich left the hearing at 3:08 p.m.

7. Medjesi, Zvonko – Taxi Driver, City Cabs #6373

*Z. Medjesi entered the hearing at at 3:24 p.m.

K. Fletcher provided an overview of the hearing process for Z. Medjesi.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of two of the three actions noted in the defendant's extended driving record

A. Apfelbaum stated that Z. Medjesi's driving record contains two speeding offences and one failure to stop. He noted that one of the offences occurred in the Brantford area and is unavailable at this time. He also noted that there are no previous incidents on Z. Medjesi's file.

Reply evidence from defendant

T. Brubacher swore in Z. Medjesi.

Z. Medjesi stated that regarding the offence in Guelph he did not believe that he was speeding but chose not to fight the charge. Regarding the failure to stop, he stated that he had stopped and chose to fight it but was unavailable on the court date.

Z. Medjesi explained that the most recent offence occurred shortly after he was told that his mother was in coma. His manager required him to drive to Brantford and he was pulled over when his mind was elsewhere. He noted that he had no passengers during any of the offenses and is a better driver when he has a passenger.

Closing Remarks and Recommendation – A. Apfelbaum

A. Apfelbaum noted that the lack of previous actions as a mitigating factor.

Based on precedent established by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of nine (9) months to January 1, 2015, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of their taxi license shall be made.

Z. Medjesi noted that he had been in an accident on February 1, 2014 with a salter truck and he was charged in court for an improper lane change. This will show up when staff conduct monthly abstract checks.

A. Apfelbaum maintained his original recommendation.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #6373, Zvonko Medjesi:

- a) Zvonko Medjesi, the license holder, have his taxi-cab driver's license placed on probation for a period of nine (9) months to January 1, 2015, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to January 1, 2015, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab;
- c) the license holder, for the period to January 1, 2015 shall not receive any additional demerit points under the "Highway Traffic Act;" and
- d) the unsafe lane change offence, and any related demerit points received by the licence holder related to the incident that occurred on or about February 1, 2014, that do not currently appear on the license holder's abstract, have been considered in the making of this decision.

K. Fletcher noted that this decision is based on the staff recommendation and that Z. Medjesi was up front with the new charge.

K. Fletcher outlined the appeal process for Z. Medjesi.

*Z. Medjesi left the hearing at 3:49 p.m.

8. Adjourn

The hearings adjourned at 3:50 p.m.

Hearing Clerk, T. Brubacher

Regional Clerk, K. Fletcher



Regional Municipality of Waterloo

Regional Clerk Licensing Hearings

Minutes

Friday, April 4, 2014

10:00 a.m.

Room 216

150 Frederick Street, Kitchener, Ontario

Present were: K. Fletcher, A. Apfelbaum, T. Brubacher, P. Walter, W. Greenan*, S. Adshade*, A. Khan*, A. Lazar*, A. Tessema*, S. Toma*, V. Vlaski, H. Tukabo

1. Licensing Hearing Opening Address – Regional Clerk, Kris Fletcher

*W. Greenan and S. Adshade entered the hearing at 10:00 a.m.

Kris Fletcher, Regional Clerk, provided opening comments regarding the purpose of the hearings.

2. Greenan, William – Taxi Driver, Golden Triangle Taxi Ltd. #4415

K. Fletcher provided an overview of the hearing process for W. Greenan.

Evidence – A. Apfelbaum

Angelo Apfelbaum, Manager, Licensing and Enforcement, submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of three of the actions noted in the defendant's extended driving record

A. Apfelbaum noted that there were four actions and six demerit points on W. Greenan's extended driving record when he renewed his license earlier in 2014. The offence that 1607078

occurred in 2011 has since come off of the record. He stated that one of the actions is not available in a certified copy. A. Apfelbaum noted that there were no previous issues in W. Greenan's file.

Reply evidence from defendant

Tim Brubacher, Hearing Clerk, swore in W. Greenan.

W. Greenan stated that he did not realize that he was speeding. He thought that the speed limit was 60 km/h not 50 km/h. He also noted that the failure to yield right of way to a pedestrian occurred when he was waived through an intersection by another car and bumped a pedestrian when turning. He stated that it was an accident that occurred at approximately 10 km/h. All of the offences occurred in a taxi-cab but there were no passengers. The owner of his taxi-cab was advised immediately.

Closing Remarks and Recommendation – A. Apfelbaum

Based on the guidelines established by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of ten (10) months to February 3, 2015, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of his taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #4415, William Greenan

- a) William Greenan, the license holder, have his taxi-cab driver's license placed on probation for a period of nine (9) months to January 3, 2015, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to January 3, 2015, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab; and
- c) the license holder, for the period to January 3, 2015 shall not receive any additional demerit points under the "Highway Traffic Act."

K. Fletcher noted she was reducing the number of months recommended by staff due to the one offence coming off of W. Greenan's extended driving record.

K. Fletcher provided an overview of the hearing process for W. Greenan.

**W. Greenan and S. Adshade left the hearing at 10:16 a.m.

3. Khan, Amjad - Taxi Driver, Golden Triangle Taxi Ltd. #5528

A. Apfelbaum noted that staff had received a letter from Sahab Batth, Vice President, Golden Triangle Taxi Ltd., stating that A. Khan is out of the country for approximately four to five months. As a result he will not be present for the hearing.

K. Fletcher asked if the notice of the hearing provided to A. Khan stated that a decision could be made in his absence. A. Apfelbaum stated that the notice stated that the hearing would continue even if he was not present but the hearing could be held over until he returns.

A. Apfelbaum stated that he would recommend that any penalty be held over until A. Khan returns.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: A letter from Sahab Batth, Vice President, Golden Triangle Taxi Ltd

Exhibit B: A Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit C: Certified copies of two of the actions noted in the defendant's extended driving record

A. Apfelbaum stated that the offence dated 2010/05/26 has now come off A. Khan's driving record. He noted that the remaining actions and demerit points would not be enough, by themselves, to hold a hearing.

In response to a question from K. Fletcher, A. Apfelbaum stated that staff can deauthorize A. Kahn's license which will require him to come to the office prior to driving again.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #5528, Amjad Khan:

- a) Amjad Khan, the license holder, have his taxi-cab driver's license deauthorized for the duration of his time away from Canada;
- b) Should the license holder return to Canada within a five (5) month period to September 3, 2014, the license holder shall be directed to appear at a hearing before the Regional Clerk prior to having his taxi-cab driver's license reauthorized; and
- c) Should the license holder return to Canada after the period to September 3, 2014, the license holder shall be directed to meet with A. Apfelbaum prior to having his taxi-cab driver's license reauthorized.

K. Fletcher stated that this decision was based on the penalty guidelines, that A. Khan is currently out of the country, and that demerit points will be coming off of his record in the near future.

4. Lazar, Adrian - Taxi Owner / Driver, Golden Triangle Taxi Ltd. #5396

*A. Lazar entered the hearing at 10:57 a.m.

K. Fletcher provided an overview of the hearing process for A. Lazar.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of two of the actions noted in the defendant's extended driving record

A. Apfelbaum noted that A. Lazar's driving record contains three actions and five demerit points. He stated that there was one offence for disobeying a legal sign, one for speeding, and one for using a hand held device. He noted that a certified copy of the out of province speeding offence was not available. A. Lazar produced a copy of an offence from New York State for speeding.

A. Apfelbaum noted that A. Lazar has not received any warning letters and had a clean record prior to this review.

Reply evidence from defendant

T. Brubacher swore in A. Lazar.

A. Lazar explained that the speeding offence occurred when he was traveling with the flow of traffic and was only traveling ten m/h over the limit. The sign offence occurred in a taxi-cab, with no passengers, and he felt that he stopped at the sign but the officer disagreed. He noted that he has never had an accident. The hand held device offence occurred at a stop light when he briefly looked at the phone.

Closing Remarks and Recommendation – A. Apfelbaum

Based on the defendant's clean driving history and the guidelines established by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of eight (8) months to December 3, 2014, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any

violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of his taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #5396, Adrian Lazar:

- a) Adrian Lazar, the license holder, have his taxi-cab driver's license placed on probation for a period of eight (8) months to December 3, 2014, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to December 3, 2014, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab; and
- c) the license holder, for the period to December 3, 2014 shall not receive any additional demerit points under the "Highway Traffic Act."

K. Fletcher stated that this decision was based on the number of offences and the staff recommendation.

K. Fletcher provided an overview of the hearing process for A. Lazar.

*A. Lazar left the hearing at 11:22 a.m.

5. Tessema, Allazar - Taxi Driver, Golden Triangle Taxi Ltd. #6631

*A. Tessema, M. Kahn, and H. Tukabo entered the hearing at 11:27 a.m.

T. Brubacher affirmed Haileab Tukabo, interpreter for A. Tessema.

K. Fletcher provided an overview of the hearing process for A. Tessema.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of the five of the six actions noted in A. Tessema's extended driving record

A. Apfelbaum noted that there are six actions and six demerit points in the driving record. He stated that a certified copy of one of the offences is not available but is noted in the driving record. He explained that there are three speeding charges, one for using a hand held device, one for disobeying a legal sign, and one failure to provide insurance.

He also noted that there is no prior actions in A. Tessama's file and all of the offences occurred in in a short period of time over the last two years.

Reply evidence from defendant

T. Brubacher swore in A. Tessama.

A. Tessema stated that regarding the failure to provide insurance and the disobeying the stop sign, he attempted to provide a copy of the insurance but the officer wanted the original pink slip. The photo copy was in the car but the original was not.

T. Brubacher affirmed Masrur Khan, President of Golden Triangle Taxi Ltd. and former owner of A. Tessama's taxi-cab.

M. Khan stated that they were prepared to explain this in court but notice of the hearing was not provided to A. Tessama but was sent to M. Kahn's former address.

A. Tessema explained that the speeding offence on 2013/01/26 occurred on his way to Ottawa when he sped up to allow a car to pass but did not realize that it was a police officer. The offence related to the hand held device occurred when a member of his congregation was in hospital and people were calling him to provide updates on their condition. He stated that he was worried about them and picked up the phone.

He noted that none of the offences occurred when he had passengers in his taxi-cab.

Closing Remarks and Recommendation – A. Apfelbaum

Based on evidence provided by M. Kahn and A. Tessema related to the offence for failing to provide insurance, A. Apfelbaum recommended not including the action for failing to provide insurance in the number of actions on A. Tessema's record. Therefore, based on guidelines established by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of eleven (11) months to March 3, 2015, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of his taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #6631, Allazar Tessema

- a) Allazar Tessema, the license holder, have his taxi-cab driver's license placed on probation for a period of eleven (11) months to March 3, 2015, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to March 3, 2015, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab; and
- c) the license holder, for the period to March 3, 2015 shall not receive any additional demerit points under the "Highway Traffic Act."

K. Fletcher stated that this decision was based on agreement with staff to not consider the failure to provide insurance in the penalty.

K. Fletcher explained the implications of probation and that A. Tessema will be permitted to continue to drive during that period.

K. Fletcher outlined the process for appeal to A. Tessema.

*A. Tessema, M. Kahn, and H. Tukabo left the hearing at 11:59 a.m.

6. Toma, Sam - Taxi Driver, United Taxi Ltd. #6545

*S. Toma and M. Sima entered the hearing at 11:59 a.m

K. Fletcher provided an overview of the hearing process for S. Toma.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of five of the six actions noted in the defendant's extended driving record.

A. Apfelbaum noted that there are six actions and three demerit points noted on S. Toma's driving record. He stated that the one offence dated 2013/06/11 occurred in London and a certified copy is unavailable. A. Apfelbaum noted that the offence of failing to provide insurance was present when S. Toma originally applied for a taxi-cab license.

Reply evidence from defendant

T. Brubacher swore in S. Toma.

S. Toma explained that the failure to have the driver's license occurred because he was unaware that his license had expired. He had been hit from behind when his license was required.

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He stated that two of the speeding offences occurred when he was in a taxi-cab but he did not have passengers at the time. He noted that since he has started leasing a taxi-cab he is a better driver due to less pressure on him.

Closing Remarks and Recommendation – A. Apfelbaum

A. Apfelbaum noted that the existence of the one action at the time that S. Toma obtained his license was a mitigating factor and he recommended that it not be included in the number of actions on S. Toma's record. Therefore, based on the guidelines established by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of eight (8) months to December 3, 2014, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of his taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #6545, Sam Toma:

- a) Sam Toma, the license holder, have his taxi-cab driver's license placed on probation for a period of eight (8) months to December 3, 2014, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to December 3, 2014, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab; and
- c) the license holder, for the period to December 3, 2014, shall not receive any additional demerit points under the "Highway Traffic Act."
- d) should the license holder receive any additional demerit points under the "Highway Traffic Act;" or fail to obey all provisions of the "Highway Traffic Act" while operating a taxi-cab for the period to December 3, 2014, the licence holder be required to appear before a hearing of the Licensing and Retail Committee.

K. Fletcher stated that this decision was based on agreeing with not counting the failure to provide insurance based on it existing prior to S. Toma obtaining a taxi-cab drivers license.

K. Fletcher outlined the appeal process for S. Toma.

*S. Toma left the hearing at 12:20 p.m.

7. Vlaski, Vitomir - Taxi Driver, United Taxi Ltd. #6109

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*V. Vlaski entered the hearing at 12:20 p.m.

K. Fletcher provided an overview of the hearing process for V. Vlaski.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2011-2013

Exhibit B: Certified copies of the three actions noted in the defendant's extended driving record.

A. Apfelbaum noted that the driving record contains three actions and three demerit points. Two of the actions are for speeding and one is for failing to come to a complete stop. All of the demerit points were received for the failure to come to a complete stop. He noted that V. Vlaski has had no previous issues.

Reply evidence from defendant

T. Brubacher swore in V. Vlaski.

V. Vlaski stated that the first speeding offence was issued right after a reduction in the speed limit and he did not slow down quickly enough. The failure to stop was on a snowy night and the stop sign was covered in snow. None of the offences occurred with passengers in the car.

Closing Remarks and Recommendation – A. Apfelbaum

Based on no previous issues and the guidelines established by the Licensing and Retail Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of six (6) months to October 3, 2014, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of his taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #6109, Vitomir Vlaski:

- a) Vitomir Vlaski, the license holder, have his taxi-cab driver's license placed on probation for a period of six (6) months to October 3, 2014, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to October 3, 2014, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab; and
- c) the license holder, for the period to October 3, 2014, shall not receive any additional demerit points under the "Highway Traffic Act."

K. Fletcher stated that this decision was based on agreeing with the staff recommendation and past precedents.

K. Fletcher outlined the appeal process for V. Vlaski.

* V. Vlaski and M. Sima left the hearing at 12:34 p.m.

8. Adjourn

The hearings adjourned at 12:35 p.m.

Hearing Clerk, T. Brubacher

Regional Clerk, K. Fletcher