

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. **12.3.2**
Appeals Standing Committee
February 9, 2017

TO: Chair and Members of the Appeals Standing Committee

SUBMITTED BY:



Bob Bjerke, Chief Planner and Director Planning & Development

DATE: January 30, 2017

SUBJECT: Appeals Report – Taxi Driver/Owner License Suspension, Mr. Sidahmed Barjin

ORIGIN

On December 19, 2016, Mr. Sidahmed Barjin filed a Notice of Appeal (attached as Appendix A) regarding the temporary suspension of his taxi driver license H587 and taxi owner license H285.

LEGISLATIVE AUTHORITY

- By-law A-100, Appeals Committee By-law; and
- By-law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines.

MOTION FOR CONSIDERATION

In accordance with Section 58 of Administrative Order One, the motion before the Appeals Standing Committee is to allow the appeal.

RECOMMENDATION

It is recommended that the Appeals Standing Committee uphold the Order of the Licensing Authority and thereby deny the appeal.

BACKGROUND

On November 20, 2016, Mr. Barjin attended a meeting at the Licensing Office, to review a complaint dated November 15, 2016. Mr. Barjin offered no statement until he spoke with his lawyer.

On November 29, 2016, the Licensing Authority received confirmation that Halifax Regional Police charged Mr. Barjin with assault with a weapon and possession of weapon for dangerous purpose, resulting from an incident while operating as a taxi driver. Mr. Barjin was released on conditions, one of which was to appear in provincial court on December 15, 2016, on the following criminal charge:

- Assault with a weapon;
- Possession of weapon for dangerous purpose.

On December 14, 2016, Mr. Barjin attended a second meeting at the licensing Office to review the details of the incident and refused to provide a statement. A letter (attached as Appendix B) was issued to Mr. Barjin advising of the immediate suspension of his taxi driver license H587 and taxi owner license H285 on a temporary basis, by order of the Licensing Authority in accordance with Section 44.1 of By-law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines. Mr. Barjin was advised that following the outcome of the court proceedings a review of his licensing privileges will be conducted. Mr. Barjin was also advised of the appeal process should he wish to exercise that right.

On December 14, 2016, Mr. Barjin made application for a Change Of Company which the Licensing Office received on December 16, 2016. The application included a Statutory Declaration (attached as Appendix C) signed on December 14, 2016 and upon review of the document it contained false information. The specific question asking the applicant of any charges or convictions in the past 5 years was answered "NO". The Statutory Declaration signed by Mr. Barjin was false and violated Section 45.1 of the Taxi and Limousine By-law T-1000.

On December 19, 2016, Mr. Barjin submitted a Notice of Appeal to the Municipal Clerk's Office.

DISCUSSION

Section 44.1(b) & (c) of the Taxi and Limousine By-law T-1000 states;

44.1 The Licensing Authority may suspend or revoke the owner's license or driver's license, or both, of any license holder, or refuse any applicant who

- (b) is either charged or convicted pursuant to any municipal by-law, or provincial or federal legislation;
- (c) has committed any act or acts, that in the opinion of the Licensing Authority, it is in the public interest that the person not hold either an owner's license or driver's license;

Given the serious nature of the criminal charges which are directly related to the actions of Mr. Barjin while operating as licensed taxi driver, the Licensing Authority in accordance with Section 44.1 of By-law T-1000, considers it prudent at this time to consider Mr. Barjin not sufficiently fit to hold licenses to operate as a taxi driver. His taxi driver and owner licenses are currently suspended pending the outcome and a review of his court proceedings.

FINANCIAL IMPLICATIONS

There are no financial implications.

RISK CONSIDERATIONS

The risks associated with this recommendation are moderate given consideration to public safety.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

ALTERNATIVES

- To allow the appeal before the Appeals Standing Committee. This alternative is not recommended,
- To defer the appeal before the Appeal Standing Committee until the criminal matter before the courts has been determined.

ATTACHMENTS

Appendix A Notice of Appeal, dated December 19, 2016
Appendix B Letter of Temporary Suspension, dated December 14, 2016
Appendix C Copy of Statutory Declaration, dated December 14, 2016
Appendix D Copy of Municipal Clerk's letter dated December 20, 2016

A copy of this report can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared For: Kevin Hindle, Regional Coordinator, License Standards, 902.490.2550

Report Approved by:



Jim Donovan, Manager, Buildings & Compliance, 902.476.8211

APPENDIX A

Stewart, April

VALID

From: Sidahmed Barjin (Sido) [REDACTED]
Sent: December-19-16 2:51 PM
To: Office, Clerks
Subject: Complaint and notice of appeal regarding to
Attachments: image2.JPG; image1.PNG; ATT00001.txt



Dear Mrs. Vining (HRM clerk) and HRM Appeal Standing Committee,

My name is Sidahmed Barjin, a ordinary Canadian Citizen who resides in Halifax, Nova Scotia. I am a Taxi driver who have gotten his Taxi Driver's licence on 2003 and over the course of the past thirteen years, I've been in the waiting least of the Halifax Taxi Owner's License, during the period of the time I've mentioned herein I haven't had any complaint against me from any citizen or none citizens whether they're high profiles or low profiles and ordinary individuals but perhaps a taxi driver who might've had a hate, beef and grudge towards me because of a perhaps business challenges.

After lengthy periods of wait time (approximately over thirteen years) I've finely received my taxi Owner's License on September 19, 2016 from the Licence Administrator of the Licence Standards of the Municipal Compliance. I've pieced my Taxi business well together and named PRO-WEST and everything was running so smoothly for me up until another Taxi Driver whom had had a hate, beef and grudges towards me have falsely accused me that I hit him with a baseball-bad while on the November 10, 2016.

I've been in contacted by one of the Compliance Officers of the Municipal Compliance asking me if I could sit with him and allow him and two of his fellow officers from the Compliance Office for an investigation which I've fully accepted and participated it.

During my meeting with the officer and his fellow observers I've been told that their office have received an information pertaining that I've been accused by another taxi driver and they would want know my part of the story therefore he would determine and decided what to do. He also told me that I have choice of not to disclose anything (if I need to) he said "I have choice of not to make statement, instead I can retain an attorney (Lawyer) and can ask my Lawyer to phone him or meet with him to make the statement on my behalf.

Due to the fact that the Officer misspoke numerous of occasions during his investigation, because if the fact that the Officer from the Taxi Compliance who was conducting the so-called investigation have neglected to disclose some of the information I was in need then I simply told him that I will get a hold and retain a Lawyer. However, the Compliance officer have acknowledged my request of suspending his investigation up until I get a lawyer and I've indicated that it may take me two to four weeks to retain the Lawyer and he has fully agreed.

The HRM Taxi Compliance Officer have contacted me within a week asking me to come to their office despite giving me an opportunity to retain a Lawyer during his previous investigation. I met with him and another officer who happened to be there as a observer and I had my spouse with me. During his first term and as well the second term investigation I've felt that the officer was in favour with other driver and pushing the matter against me therefore I expressed my discomfort of how he was conducting his investigation and I told him that he has lost my confidence and I've asked him whether or not he could escalate the matter to a higher level, could follow a chain of command and could give me an opportunity to speak with his supervisor. He said his supervisor wasn't on duty. However, a high ranked officer from the police office have overheard of the dialogue that the Taxi Compliance and I have had and come over for resolution. The high ranked police officer promised me that he would touch base the matter to the compliance officer's supervisor that

I would wanted to speak speak with and u would be phoned and advised me to come to their office following day in the event that I don't receive the phone call from the compliance supervisor.

I didn't receive the phone call which I was told I would be receiving the following day, and I as was advised I went back to the HRM Taxi commissions office willing to meet with any officer who would want hear from my side about what the truth of the matter was. Instead of meeting with the Taxi Compliance's supervisor I was simply given a suspended memo and I was advised to be in contact to your office (THE HRM CKERK'S OFFICE)

I strongly believe that I shouldn't whatsoever be suspended because of false accusation made by another taxi driver who had a hate, beef and grudges towards me. I believe that the matter should go before the Supreme Court judge. I believe that if incase I am suspended before the matter goes to before a supreme court judge, the other Taxi driver who falsely accused me and the driver who have false witnessed for him should also be suspended.

I am looking forward to hearing from you.

Thank you

Sincerely

Sidahmed Barjin

[Redacted Signature]

REGULATING
BY-LAW 1-1980
THE REGULATION OF TAXES & LICENSE FEES

VALID

1. Mr. Boris Sidelov in his written Notice of Appeal is
referring to the following decision:

The decision of the Licensing Authority regarding the (By-law) (Suspension)
Cancellation of my

(Owner's License # H255) / Driver's License # H287 Application

2. The reason for appeal is That I strongly disagree that
the Compliance officer of the NSM Tax Commission
should suspend my tax license because the
probable violation was against me by another tax
payer and not me and a hearing should be held.
*Please note that hearings of the Appeals Standing Committee are open to the public and any
information, including personal information, that is provided or obtained in relation to your appeal will
be a matter of public record.

DATED December 16 1980 at Halifax, NS

Sidelov Boris
Name of Appellant (print name)

ORIGINAL SIGNED

Signature of Appellant

SUBMIT TO:

Office of the Municipal Clerk
City Hall
1841 Argyle Street, Halifax

PO Box 1749
Halifax, NS B3J 3A5

(Address)

(City)

(City)

(Postal Code)

(Home Number)

(Work Number)

APPENDIX B

December 14, 2016

Sid Ahmed Abukar Barjin
[REDACTED]
[REDACTED]

Mr. Barjin,

The HRM Licensing Authority has been advised of your recent criminal charges dated 10 November 2016, in relation to the operation of Halifax taxi owner licence #H285.

- Criminal Code - Assault with a weapon
- Criminal Code - Possession of weapon for dangerous purpose

This letter is to advise that your taxi driver licence #H587 and your taxi owner licence #H285 is immediately suspended, on a temporary basis by order of the Licensing Authority in accordance with Section 44.1 of By-law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines.

Section 44.1(b) & (c) of the Taxi and Limousine By-law T-1000 states;

44.1 The Licensing Authority may suspend or revoke the owner's licence or driver's licence, or both, of any licence holder, or refuse any applicant who

- (b) is either charged or convicted pursuant to any municipal by-law, or provincial or federal legislation;
- (c) has committed any act or acts, that in the opinion of the Licensing Authority, it is in the public interest that the person not hold either an owner's licence or driver's licence;

Accordingly, you are requested to submit your taxi driver's licence and your taxi owner's licence to the Taxi Licensing Office at 7 Mallor Avenue Dartmouth, as you are not permitted to drive a taxi until further notice.

HALIFAX

Halifax Regional Municipality
PO Box 1749, Halifax, Nova Scotia
Canada B3J 3A5

halifax.ca

Taking into account the serious nature of the incident and the fact that you have only held your tax owner license # H286 since October 24 2016, the Licensing Authority has determined that it is in the public interest to suspend your licence. Following the outcome of any court proceedings, a review of your licensing privileges will be conducted. This review may result in the permanent revocation of your licence.

In accordance with Section 48 of By-law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines, you have the right to appeal this temporary suspension within 15 days from the date of the suspension.




48.2 A person whose application is refused or a person whose owner's license or driver's license is suspended, revoked or cancelled by the Licensing Authority may appeal to the Appeals Standing Committee within 15 days after the refusal, suspension or cancellation by submitting their appeal in writing to the Municipal Clerk's Office C/O Municipal Clerk, P.O. Box 1749, Halifax, NS, B3J 3A6. Once filed, an appeals committee hearing will be scheduled.

Any questions concerning this correspondence should be directed to the undersigned at (902) 476-1482.

Sincerely,

ORIGINAL SIGNED

Steven Berkman
Compliance Officer / Building & Compliance
Planning & Development

	REGISTERED DOMESTIC CERTIFIED RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REGU EN CUBIT	
Name	Destination		
Address	City / Ville / Postal Code		
City / Ville / Postal Code	Phone / Tél. / Other postal		
5			
22-005-000 (14-03)		RN 199 912 187 CA	

APPENDIX C

IN THE MATTER OF "THE CANADA EVIDENCE ACT" STATUTORY DECLARATION

Sidshimed Barjin, in the Province of Nova Scotia, do solemnly declare that the following particulars about myself are true.

NAME Barjin Sidshimed Abukar
(Surname) (First) (Middle)

RESIDENTIAL ADDRESS [REDACTED] POSTAL CODE [REDACTED]

DATE OF BIRTH [REDACTED] PHONE NUMBER [REDACTED]
(Month) (Day) (Year)

ARE YOU LEGALLY ENTITLED TO WORK IN CANADA? YES NO

HAS YOUR APPLICATION FOR A TAXI OR LIMOUSINE LICENCE EVER BEEN DENIED?
YES NO IF SO, WHY? _____

HAVE YOU EVER HAD A LICENSE TO DRIVE A TAXI OR LIMOUSINE PREVIOUSLY?
YES NO IF SO, WHERE? Halifax

HAS YOUR TAXI OR LIMOUSINE LICENCE EVER BEEN CANCELED OR SUSPENDED?
YES NO IF SO, WHY? _____

HAS YOUR LICENCE TO OPERATE A MOTOR VEHICLE EVER BEEN CANCELED OR SUSPENDED?
YES NO IF SO, WHY? _____

IN THE PAST 5 YEARS HAVE YOU EVER BEEN CHARGED WITH, OR CONVICTED OF, ANY CRIMINAL OFFENCE OR ANY OFFENCE UNDER ANY STATUTE, ACT OR BY-LAW, IN CANADA, OR IN ANY OTHER COUNTRY? YES NO

IF YES, STATE OFFENCE AND LOCATION

And I make this solemn declaration conscientiously believing it to be true, and knowing it is of the same force and effect as if made under oath, and by virtue of "THE CANADA EVIDENCE ACT".

Declared before me at Halifax Regional Municipality, in the Province of Nova Scotia, this 14 day of December, 2016

ORIGINAL SIGNED

BRANDON FENTON
A Commissioner of the
Supreme Court of Nova Scotia

(A Commissioner of the Supreme Court of Nova Scotia)

ORIGINAL SIGNED

Signature of Applicant

APPENDIX D

December 20, 2016

REGISTERED MAIL

Mr. Sidahmed Abukar Barjin

CANADA POST / REGIMÉ INTERIEUR		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR	R
CUSTOMER RECEIPT		REÇU DU CLIENT		
To / Destinataire	Name / Nom			
Address / Adresse				
City / Prov. / Postal Code	Ville / Prov. / Code postal			
33-085-554 (114-00)		RN 190 915 047 CA		

Re: Appeal of Suspension - Halifax Taxi Driver License #H587 and Taxi Owner License #H285

Mr. Barjin,

This is to advise that your appeal of the Licensing Authority's decision to suspend both your Halifax taxi driver license #H587 and your taxi owner license #H285 will be heard by the Appeals Standing Committee on Thursday, February 9, 2017. The hearing will be held in the Council Chamber, 3rd Floor, City Hall, 1841 Argyle Street, Halifax, in a public session, open to the public and media. Please arrive for 10:00 a.m., but note that there may be other cases heard before yours on the agenda.

The staff report for this matter will be posted online to the Appeals Standing Committee agenda page by end of day Thursday, February 2, 2017 at <http://www.halifax.ca/boardscom/SCAppeals/index.php>. If you require a hard copy of the report, please contact our office.

Should you be unable to attend, you may have a representative attend to present the appeal to the Committee. Please note that your representative is required to have a letter signed by you giving permission. You or your representative may have witnesses or other evidence in support of the appeal and will be permitted up to 10 minutes to make a verbal submission. A copy of the appeals process is attached. If neither you nor a representative appears, the hearing will proceed and you will be advised of the Committee's decision.

If you have any questions regarding this process, please contact me at 902-490-6518.

Sincerely,

ORIGINAL SIGNED

Krista Vining
Legislative Assistant
Office of the Municipal Clerk

cc: Kevin Hindle, Licensing Coordinator, Municipal Compliance
Andrea MacDonald, Manager, License Standards, Municipal Compliance
Scott Hill, Supervisor, Regional Compliance
Steven Berkman, Compliance Officer
Rowena Dill, License Administrator

Enclosure: Order of Proceedings for Appeals Standing Committee

HALIFAX

Halifax Regional Municipality
PO Box 1748, Halifax, Nova Scotia
Canada B3J 3A5

halifax.ca

Order of Proceedings for Appeals Standing Committee

The Chair will open each of the hearings and address the following:

- The Chair will ask the Appellant (property owner/taxi licence holder) to identify themselves and provide their contact information
- If a person is appearing on behalf of an Appellant who is not present (legal counsel, family member, friend), they must provide written authorization to act on the Appellant's behalf
- The Chair will briefly explain the hearing will proceed (as follows):
 - **Staff Presentation:** The HRM staff presenter explains the basis for the order under review and presents evidence in support of the order (including any documents or recent photos of the property, if applicable)
 - The Committee may ask questions of the HRM staff presenter for clarification
 - The Appellant may ask questions of the HRM staff presenter for clarification
 - Non-party witnesses* may be permitted to provide factual evidence relevant to the appeal
 - The Appellant may ask questions of non-party witnesses for clarification
 - **Appellant's Presentation:** The Appellant is granted reasonable time to present evidence in support of the appeal (documents/photos/witnesses)
 - The Committee may ask questions to the Appellant and/or their witnesses
 - The Appellant or his/her representative is then permitted up to 10 minutes to make a verbal submission in support of their case to reverse the order
 - The Committee may ask questions to the Appellant and also further questions of HRM staff (subject to Appellant's response to the answers)
 - Staff may ask questions to the Appellant (subject to Appellant's response to the answers)
 - The Committee then debates their decision and renders a decision with the Appellant or his/her representative present
 - Upon motion the Committee may move in Camera (In Private) to obtain confidential legal advice at any time during the process
- The Committee has four (4) alternatives:
 - cancel the order (allow the appeal)
 - amend the order (change the conditions)
 - keep the order as is (appeal dismissed)
 - continue the hearing at a later date (defer)

Non-Party Witnesses

Persons who are not parties to the appeal may be permitted to provide relevant evidence of factual matters within their personal knowledge to the Appeals Standing Committee. Non-party witnesses will be given an appropriate amount of time to present their information.

Hearings of the Appeals Standing Committee are open to the public and any information, including personal information, which is provided or obtained in relation to your appeal, will be a matter of public record.

The Appeals Standing Committee meetings begin at 10 a.m. and cases will be heard as they appear on the approved agenda.