



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

Item No. 12.3.1
Appeals Standing Committee
June 13, 2019

TO: Chair and Members of the Appeals Standing Committee

SUBMITTED BY: **ORIGINAL SIGNED**
Penny J. Henneberry, Manager, Buildings and Compliance

DATE: June 3, 2019

SUBJECT: Appeal Report – Taxi Driver and Owner License Cancellation, Lesianu Hweld

ORIGIN

On May 9, 2019, Mr. Lesianu Hweld filed a Notice of Appeal (attached as Appendix B) regarding the cancellation of his Taxi Driver and Owner License.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

The question before the Appeals Standing Committee is whether to allow or deny the appeal before them.

BACKGROUND

April 25, 2019: Mr. Hweld submitted an application to the Licensing Authority to renew his vehicle for hire owner licence #H175.

April 29, 2019: Mr. Hweld submitted an application to the Licensing Authority to renew his vehicle of hire driver licence #H452.

Upon review of the taxi driver license application package for renewal, the Licensing Authority determined that the driver abstract had several infractions leading to a suspension of Mr. Hweld's Nova Scotia driver's licence as well as a second suspension one month later. Both suspensions had been served by Mr. Hweld and the Licensing Authority was not made aware of either case.

Between August 16 – October 23, 2018, Mr. Hweld's provincial driver's license was suspended. The Licensing Authority confirmed with Yellow Cab, the company with whom Mr. Hweld is affiliated, that Mr. Hweld was driving under roof light #H199 and that his owner license #H175 was being driven by another driver during the suspension timeframe.

On October 21, 2018, Mr. Hweld had a collision while driving #H199. Halifax Regional Police confirmed that the collision occurred while suspended and he was charged as a result. The pending court date is July 2, 2019.

Between November 19, 2018 – October 21, 2019, Mr. Hweld was suspended again. This suspension was lifted by the Province on December 31, 2018. Yellow Cab confirmed that Mr. Hweld was driving during November 19 – December 31, 2018 while his provincial driver's license was suspended. From November 19, 2018 until January 8, 2019, Yellow Cab confirmed that Mr. Hweld's owner license #H175 was no longer receiving calls from the system.

May 9, 2019, the Licensing Authority met with and issued a letter (attached as Appendix C) to Mr. Hweld cancelling the vehicle for hire driver and owner license in accordance with Section 44.2 (b) and (c); 45.1 (a) and (b); and 47.4 of By-law T-1000.

DISCUSSION

In accordance with Section 44.2 (b) and (c); Section 45.1 (a) and (b); and 47.4 of By-law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines,

44.2 *The Licensing Authority may refuse to grant a driver's license or may suspend or cancel a driver's license if*

- (b) the applicant or license holder has failed to immediately notify the Licensing Authority that they have become the subject to a court order, undertaking, charge or conviction;*
- (c) the applicant or license holder has a driving record, criminal or provincial offence record or outstanding criminal charges that in the opinion of the Licensing Authority makes him or her unfit to operate a taxi, accessible taxi, or limousine, as the case may be;*

45.1 *If an applicant or the holder of an owner's license or driver's license makes a false statement in a statutory declaration made pursuant to this by-law, the Licensing Authority may:*

- (a) refuse to issue the license that is the subject of the application;*
- (b) revoke any owner's licenses and or any driver's licenses held by the applicant; and*

47.4 *If at anytime a person who holds a driver's license under this by-law ceases to hold a valid Class four or better driver's license issued by the Province of Nova Scotia, the driver's license issued under this by-law is deemed to be suspended and the person must immediately surrender it*

to the Licensing Authority.

In reaching the decision the Licensing Authority considered the following:

The serious nature of driving with a suspended driver's license – for over three months in the first instance; the failure to immediately notify the licensing office of two suspensions; and making false statements on the statutory declaration are all significant issues in violation of by-law T-1000. Driving infractions, especially suspensions, are indicators of unsafe driving practices which in the vehicle for hire industry is cause for concern. The Licensing Authority, therefore, determined that it is in the public interest to deny Mr. Hweld's renewal application for the HRM taxi driver and owner license #H452 and #H175. In the driver/owner system, action taken for both driver and owner licenses would need to be linked as per the by-law. In this case, both licenses were revoked. This decision is in accordance with Sections 44.2 (b) and (c); Sections 45.1 (a) and (b); and Section 47.4 of By-law T-1000 Respecting the Regulation of Taxis, Accessible Taxis and Limousines.

FINANCIAL IMPLICATIONS

There are no financial implications.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

ALTERNATIVES

- To allow the appeal before the Appeals Standing Committee
- Or
- To uphold the decision of the Licensing Authority and deny the appeal.

ATTACHMENTS

Appendix A: Copy of the Legislative Authority - Taxi and Limousine By-law T-1000
Appendix B: Copy of the Notice of Appeal dated May 9, 2019
Appendix C: Copy of the Letter of Cancellation dated May 9, 2019
Appendix D: Copy of the Municipal Clerk's letter May 16, 2019

A copy of this report can be obtained online at Halifax.ca or by contacting the Office of the Municipal Clerk at 902-490-4210.

Report Prepared by: Sally Christie, Supervisor Regional Licensing, Municipal Compliance, 902.490.2550

ORIGINAL SIGNED

Report Approved by: _____
Andrea MacDonald, Program Manager, License Standards 902-490-7371

Appendix A

Halifax Regional Municipality By-law T-1000

Respecting the Regulation of Taxis, Accessible Taxis and Limousines

- 44.2** *The Licensing Authority may refuse to grant a driver's license or may suspend or cancel a driver's license if*
- (a) the applicant or license holder has been convicted of an offence against vulnerable persons, a sexual offence, an illegal sale or possession of drugs, a violent offence or breach of trust;*
 - (b) the applicant or license holder has failed to immediately notify the Licensing Authority that they have become the subject to a court order, undertaking, charge or conviction;*
 - (c) the applicant or license holder has a driving record, criminal or provincial offence record or outstanding criminal charges that in the opinion of the Licensing Authority makes him or her unfit to operate a taxi, accessible taxi, or limousine, as the case may be;*
- 45.1** *If an applicant or the holder of an owner's license or driver's license makes a false statement in a statutory declaration made pursuant to this by-law, the Licensing Authority may:*
- (a) refuse to issue the license that is the subject of the application;*
 - (b) revoke any owner's licenses and or any driver's licenses held by the applicant; and*
 - (c) direct that the applicant is ineligible to apply for or to be granted a license under this by-law for a period of up to five (5) years.*
- 47.4** *If at anytime a person who holds a driver's license under this by-law ceases to hold a valid class four or better driver's license issued by the Province of Nova Scotia, the driver's license issued under this by-law is deemed to be suspended and the person must immediately surrender it to the Licensing Authority.*

HALIFAX

NOTICE OF APPEAL
REGARDING
BY-LAW T-1000
THE REGULATION OF TAXIS & LIMOUSINES

I Lesianu Kweld wish to file this Written Notice of Appeal in relation to the decision of the Licensing Authority, regarding the (Refusal / Suspension / Cancellation) of my (Owner's license # H175 / Driver's license # H452 / Application)

The reason for appeal is:

I do not know my driver license is suspended, 1st time and the second time, and I was come from Africa After my father passed away. I didn't know meter mile is a crime, didn't understand well.

*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.

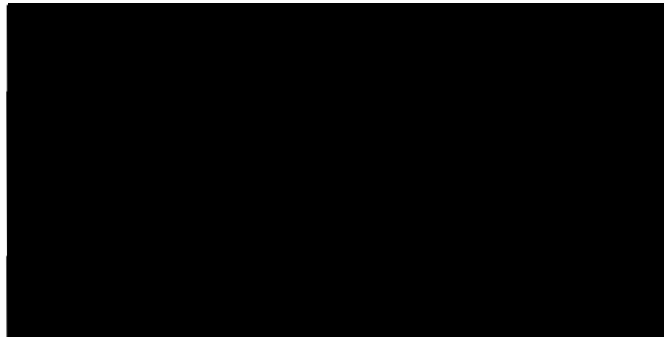
Halifax
DATED at 2019-05-09, Nova Scotia this 09 day of May, 2019.

Original Signed

Lesianu Zenedie Kweld
Legal Name of Appellant (please print)

Signature of Appellant

kes
Preferred Name



SEND TO:
Office of the Municipal Clerk
P.O. Box 1749
Halifax, NS B3J 3A5
Fax: 902-490-4208
Email: clerks@halifax.ca

Deliver in person: City Hall, 1841 Argyle Street, Halifax (Mon-Fri, 8:30am-4:30pm)



May 9, 2019

Lesianu Zewdie Hweld



Mr. Hweld,

In reviewing your driver's abstract as part of your taxi driver license renewal, the HRM Licensing Office discovered two provincial driver's license suspensions occurred four months apart, last year, among several other recent infractions. You were driving a taxi without a provincial driver's license for over two months which is in violation of provincial and municipal law. You did not notify the Licensing Authority at the time of the infractions nor did you declare them on the Statutory Declaration.

You must have a valid taxi drivers license to have a valid taxi owners license. This letter is to advise you that both your taxi driver #H452 and taxi owner license #H175 have been revoked effective today. The following are the sections that lead to the revocation from By-law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines states:

44.2 The Licensing Authority may refuse to grant a driver's license or may suspend or cancel a driver's license if

- (b) the applicant or license holder has failed to immediately notify the Licensing Authority that they have become the subject to a court order, undertaking, charge or conviction;
- (c) the applicant or license holder has a driving record, criminal or provincial offence record or outstanding criminal charges that in the opinion of the Licensing Authority makes him or her unfit to operate a taxi, accessible taxi, or limousine, as the case may be.

45.1 If an applicant or the holder of an owner's license or driver's license makes a false statement in a statutory declaration made pursuant to this by-law, the Licensing Authority may:

- (b) revoke any owner's licenses and or any driver's licenses held by the applicant.

47.4 If at any time a person who holds a driver's license under this by-law ceases to hold a valid class four or better driver's license issued by the Province of Nova Scotia, the driver's license issued under this by-law is deemed to be suspended and the person must immediately surrender it to the Licensing Authority.

You have the right to appeal this decision according to section 48.2 of By-law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines which states:

Appendix C

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.

Should you choose to appeal, please submit C/O Municipal Clerk, P.O. Box 1749, Halifax, NS, B3J 3A5. Once filed, an appeals committee hearing will be scheduled.

Any questions concerning this correspondence should be directed to our Customer Contact Centre by calling 311, an agent will assist you with your service request.

Sincerely,

Original Signed

Lois Beaton-McNamara
License Administrator
Buildings and Compliance
Planning & Development

