



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

Item No. 12.3.1
Appeals Standing Committee
March 12, 2020

TO: Chair and Members of the Appeals Standing Committee

Original Signed

SUBMITTED BY: _____
Conor O’Dea, Manager – Buildings and Compliance

DATE: February 24, 2020

SUBJECT: Appeal Report – Taxi Driver License Suspension, Mr. Donald Charles Swinimer

ORIGIN

On February 6, 2020, Mr. Donald Charles Swinimer filed a Notice of Appeal (attached as Appendix B) regarding the suspension of his taxi owner and driver licenses.

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 decision of the Licensing Authority and thereby deny the appeal

BACKGROUND

On February 6, 2020, the Taxi and Limousine Licensing Office was advised that Mr. Swinimer was charged on February 3, 2020, with the following criminal offenses under the Criminal Code:

- Section 271 Sexual Assault,
- Section 151 Sexual Interference,
- Section 153(A) Sexual Exploitation, and
- Section 152 Invitation to Sexual Touching.

Immediately upon being advised of the charge, the HRM Licensing Authority contacted Mr. Swinimer relative to his criminal charges and advised him of the immediate suspension of his Taxi Driver License #R242 and Taxi Owner License #018. A letter confirming the immediate suspensions was issued to Mr. Swinimer (attached as Appendix C).

On February 6, 2020, Mr. Swinimer submitted a Notice of Appeal to the Municipal Clerk's Office.

On February 10, 2020 the Municipal Clerk's Office sent a letter (attached as Appendix D) to Mr. Swinimer advising his appeal would be heard at the March 12, 2020 Appeals Standing Committee meeting.

DISCUSSION

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 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, the Licensing Authority in accordance with Section 44.1 of By-law T-1000, considers it prudent at this time to consider Mr. Swinimer not sufficiently fit to hold licenses to operate a taxi. His taxi driver and owner license are currently suspended pending the outcome and a review of his court proceedings. This review may result in the permanent revocation of his licenses.

FINANCIAL IMPLICATIONS

There are no financial implications.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

RISK CONSIDERATIONS

The risk consideration rates moderate to high given the charges before the courts and the individuals' role in serving the public.

ALTERNATIVES

The Appeals Standing Committee may vary the decision of the Licensing Authority provided for under the By-law and in doing so, must provide reasons to be recorded in the minutes of the committee meeting.

ATTACHMENTS

- Appendix A: Copy of the Legislative Authority- Taxi and Limousine By-law T-1000
- Appendix B: Copy of the Notice of Appeal dated February 6, 2020
- Appendix C: Copy of the Letter of Suspension dated February 6, 2020
- Appendix D: Copy of the Municipal Clerk's letter dated February 10, 2020

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: Hilary Hayes, Supervisor – Licensing, Buildings & Compliance, 902.490.2550

Original Signed

Report Approved by: _____
Andrea MacDonald, Program Manager, License Standards 902.490.7371

Halifax Regional Municipality By-law T-1000

Respecting the Regulation of Taxis, Accessible Taxis and Limousines

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;*

VALID

Feb 6/20

To Whom it may Concern,
Appeals Standing Committee,

I Donald Charles Swinimer of [redacted] Beaverbank, Nova Scotia am appealing the decision of the Taxi Commissions decision to suspend my HRM Taxi Lisence's as of when I was made aware of my Taxi Lisence's being suspended as of Feb 6/20 at 17:20hrs at which time I immediately turned my HRM Taxi Lisence's over to By-Law enforcement officer Rudy Mitri (902) 237-2814. The letter of suspension states that I have been charged with five criminal charges in fact I am charged with four. To with I supplied a copy of to the Taxi Commission's Investigating By-law officer Rudy Mitri. The conditions that I am under to which I have supplied a copy. The Justice of the peace Cassie Maguire had a court order drawn up for me to abide by upon my release which she took serious consideration for public safety while these charges proceed through the court's. She also took consideration that I was a Taxi Driver in HRM and made the conditions in my release order to enable me to work as a Taxi Driver in HRM. I am a law abiding citizen and will abide to these conditions with no exceptions.

HALIFAX REGIONAL MUNICIPALITY
FEB 10 2020
MUNICIPAL CLERK

Original Signed

Sincerely
[redacted]

01161794

Appendix C

February 6, 2020

Donald Charles Swinimer

[REDACTED]
[REDACTED]

Nova Scotia

[REDACTED]

Mr. Donald Swinimer,

The HRM Licensing Authority was informed on February 6, 2020 of your criminal charges:

- 1) Sexual Interference
- 2) Sexual Exploitation
- 3) Invitation to Sexual Touching
- 4) Sexual Assault
- 5) Luring a Child

This letter is to advise that your taxi driver license #R242 and your taxi owner license #018 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 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;

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

halifax.ca



Appendix C

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

Taking into account the serious nature of the incident, 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 3A5. Once filed, an appeals committee hearing will be scheduled.

Any questions concerning this correspondence should be directed to the undersigned at (902) 490-4064.

Sincerely,

Original Signed

Lois Beaton McNamara
License Administrator
Planning & Development
Buildings and Compliance

Appendix D

February 10, 2020

REGISTERED MAIL

Donald Charles Swinimer



CANADA POST / POSTES CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To / Destinataire	Name / Nom	FOR DELIVERY CONFIRMATION / CONFIRMATION DE LA LIVRAISON		
Address / Adresse		canadapost.ca or/ou postescanada.ca		
City / Prov. / Postal Code / Ville / Prov. / Code postal		1 888 550-6333		
Declared Value / Valeur déclarée \$		CPC Tracking Number / Numéro de repérage de la SCP RN 389 561 489 CA		
33-086-584 (17-12)				

Re: Appeal of suspension of taxi driver license #R242 and taxi owner license #018

This is to advise that your appeal of the Licensing Authority's decision to **suspend** your Halifax taxi driver license #R242 and taxi owner license #018 will be heard by the Appeals Standing Committee on **Thursday, March 12, 2020**. 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 case will be posted online to the Appeals Standing Committee agenda page by end of day Friday, March 6, 2020 <https://www.halifax.ca/city-hall/agendas-meetings-reports> If you require a hard copy of the report, please contact our office.

If filing an appeal, be advised that your submission and appeal documents will form part of the public record, and will be posted on-line at www.halifax.ca. If you feel that information you consider to be personal is necessary for your appeal, please attach that as a separate document, clearly marked "PERSONAL". It will be provided to the committee and/or council members and staff, and will form part of the public record, but it will not be posted on-line. You will be contacted if there are any concerns.

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 902-490-6520.

Sincerely,
Original Signed

Krista Vining
Legislative Assistant
Office of the Municipal Clerk

cc: Andrea MacDonald, Manager License Standards, Municipal Compliance
Lois Beaton McNamara, License Administrator

Enclosure: Order of Proceedings for Appeals Standing Committee

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