



**APPEALS STANDING COMMITTEE
MINUTES
July 11, 2019**

PRESENT: Councillor Matt Whitman, Vice Chair
Councillor Lisa Blackburn
Councillor Bill Karsten
Councillor David Hendsbee
Councillor Russell Walker

REGRETS: Councillor Steve Adams, Chair

STAFF: Karen MacDonald, Senior Solicitor
Tanya Phillips, Manager, By-law Standards
Simon Ross-Siegel, Legislative Assistant

The following does not represent a verbatim record of the proceedings of this meeting.

The agenda, reports, supporting documents, information items circulated, and video (if available) are online at halifax.ca.

The meeting was called to order at 10:00 a.m. The meeting adjourned at 11:14 a.m.

1. CALL TO ORDER

The Chair called the meeting to order at 10:00 a.m. in Council Chamber, 3rd Floor City Hall, 1841 Argyle Street, Halifax.

2. APPROVAL OF MINUTES – June 13, 2019

MOVED by Councillor Hendsbee, seconded by Councillor Walker

THAT the minutes of June 13, 2019 be approved as circulated.

MOTION PUT AND PASSED.

3. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

The agenda was approved as circulated.

4. BUSINESS ARISING OUT OF THE MINUTES – NONE

5. CALL FOR DECLARATION OF CONFLICT OF INTERESTS – NONE

6. MOTIONS OF RECONSIDERATION – NONE

7. MOTIONS OF RESCISSION – NONE

8. CONSIDERATION OF DEFERRED BUSINESS

8.1 Appeal of Lesianu Hweld, Revocation of Taxi Driver License #H175/H452

The following was before the Standing Committee:

- A staff recommendation report dated June 3, 2019

Councillor Karsten confirmed with the Senior Solicitor that the Councillor was not permitted to consider this matter, having not been present at the June 13 meeting of the Appeals Standing Committee during the initial hearing of this matter. The Councillor recused themselves and took a seat in the gallery for the duration of this item.

Sally Christie, Supervisor of Regional Licensing, provided an oral update in the matter of the appeal. At the appellant's July 2nd hearing, the Court dismissed the previous charges, though the appellant has a hearing for a new charge related to driving infractions scheduled for December 17, 2019.

Lesianu Hweld, the appellant stated that the hearing pending for December 17 is an appeal for a driving infraction. The appellant stated that the appellant initially addressed this matter in court in the spring of 2018 and obtained a favorable outcome. The Crown successfully appealed the case, and the appellant subsequently appealed the matter. If the appellant is unsuccessful, the matter will return to the Provincial Court.

In reply to questions from Councillors, staff stated that licence applicants do not receive a pamphlet outlining an applicant's obligation to report traffic infractions and licence suspensions to the Licensing Authority. However, the obligation is clearly outlined in the bylaw and licensees are tested on this particular obligation as part of the licencing authority's assessment testing for applicants. Several Councillors indicated support for the creation of a pamphlet to provide further clarity to potential applicants regarding their obligation to report.

The Committee asked staff about the process for informing applicants regarding the content and importance of the statutory declaration, and the particular manner in which the appellant was advised in drafting their statutory declaration. Staff replied that the appellant had applied for both an owner and driver's licence, and the appellant's initially submitted statutory declaration was unclear regarding certain

information. Staff requested the applicant to fill out a second statutory declaration which did not contain information regarding the appellant's traffic offenses and provincial licence suspension.

Staff provides guidance to applicants at the time of the swearing of the statutory declaration, but staff cannot provide specifics for what the appellant was informed of in this instance. Staff does walk applicants through elements of the statutory declaration and typically informs applicants that among the three most important components of the statutory declaration are the requests for details regarding if the applicant's provincial driver's licence has ever been suspended, and if the applicant has been convicted of a crime including a motor vehicle offense. The appellant stated that staff did not provide clear details regarding the second statutory declaration and this led the applicant to understand that the appellant's motor vehicle infractions were not crimes.

MOVED by Councillor Hensbee, seconded by Councillor Walker

THAT the Appeals Standing Committee allow the appeal of Lesianu Hweld.

MOTION PUT AND PASSED.

9. NOTICES OF TABLED MATTERS – NONE

10. CORRESPONDENCE, PETITIONS & DELEGATIONS

The Legislative Assistant noted that the Committee had received correspondence for Item 12.3.2 from Claudio Benigno.

11. INFORMATION ITEMS BROUGHT FORWARD – NONE

12. REPORTS

12.1 DANGEROUS OR UNSIGHTLY PREMISES: APPEALS – NONE

12.2 DANGEROUS OR UNSIGHTLY PREMISES: DEMOLITIONS – NONE

12.3 TAXIS, ACCESSIBLE TAXIS AND LIMOUSINES: APPEALS

12.3.1 Appeal of Bryan Newby, Refusal of Taxi Driver License

The following was before the Standing Committee:

- A staff recommendation report dated June 28, 2019

Sally Christie, Supervisor of Regional Licensing, presented the appeal and answered questions of clarification for the Committee. In reply to questions, staff explained that the Licencing Authority reviews the criminal background check and the driver's abstract holistically with a particular attention to offenses indicating unsafe driving, and passenger safety. In this case, the appellant lost their driver's licence for an impaired driving offense for one year. The appellant had completed the suspension and received their licence within the last six-month period. In the context of impaired driving offenses, the Licencing Authority considers any charges within three years of an application as relevant to the question of public safety.

Staff confirmed that the applicant did inform the Licencing Authority of the appellant's conviction in the appellant's initial application.

Bryan Newby, the appellant, addressed the Committee. The appellant stated that they hold a class one licence issued by the Registry of Motor Vehicles, allowing the applicant to drive several specialized vehicle types in addition to those commonly permitted by a Class 5 licence. The appellant stated that they were permitted to drive vehicles for hire in every jurisdiction in Nova Scotia except for HRM. The appellant

stated that they live in HRM and want to work in the municipality. The applicant stated they have a letter of employment.

In reply to questions from the Committee, staff stated that staff cannot speak to the regulations of other regions in Nova Scotia, however there are reasons the HRM Licencing Authority follows practices which may be more restrictive. Particular criminal charges or patterns of driving offenses raise issues pertaining to passenger safety. Charges involving driving with blood alcohol levels exceeding the legal limit raise concerns regarding passenger safety, and the Licencing Authority does not proceed further with the application. Staff also clarified that while certain driving offenses like stunting would themselves warrant consideration as an unsafe practice, many individual driving infractions such as speeding do not themselves raise passenger safety concerns. Rather, staff looks for a pattern of driving offenses which raise concerns. Staff considers each applicant's submission holistically in determining whether to deny a licence to an applicant.

Regarding timelines, Karen MacDonald, Senior Solicitor, informed the Committee that though the Licensing Authority tends to follow policy suggesting staff may consider applications further where there has been a five-year gap since an impaired driving offense, the Committee retains discretionary judgement which it may exercise on a case-by-case basis. Staff also added that an applicant can always re-apply for a licence.

Some Councillors expressed a desire for formal guidelines regarding timelines for the consideration of previous offenses and "cooling-off" periods to give applicants further clarity regarding potential outcomes of an application.

Some Councillors rejected the claim, as expressed in the applicant's written submission, that the applicant has a right to drive a taxi and stated that licencing is a privilege.

MOVED by Councillor Karsten, seconded by Councillor Blackburn

THAT the Appeals Standing Committee allow the appeal of Bryan Newby.

MOTION PUT AND DEFEATED.

12.3.2 Appeal of Claudio Benigno, Refusal of Taxi Driver License #H782

The following was before the Standing Committee:

- A staff recommendation report dated June 28, 2019

Sally Christie, Supervisor of Regional Licensing, presented the appeal and answered questions of clarification for the Committee.

Claudio Benigno, the appellant, addressed the Committee. The appellant stated that they had been a driver for ten years. The appellant stated that, like the driver for the deferred matter, the appellant had a difficulty with respect to understanding and accurately reporting information in the appellant's statutory declaration. The appellant stated that this was a common experience for many drivers and though the appellant did not wish to blame staff, the appellant does understand the frustrations drivers may express with the process for licence applications and renewals. The appellant went to a municipal office and understood that the appellant had a thirty-day grace period with which to apply for a new licence. During this time, the appellant drove a vehicle for hire under the mistaken impression that this was permitted during the grace period. The appellant stated they did not intend to break the rules. The appellant stated that they had difficulty getting in touch with staff through the ordinary process of calling 311. Staff can take anywhere between an hour to a week to respond to applicants and most often do so by phone when a driver is servicing a customer. The appellant states they do not like to talk on the phone when with customers. The appellant suggested it would be beneficial for the Licencing Authority to organize a discussion with experienced drivers and to discuss the process for licencing renewal to better understand the challenges drivers experience. The appellant stated that they believe such conversations would help

members avoid misunderstandings which the appellant stated were the reason the appellant was before the Committee.

In reply to questions from the Committee, staff stated that beginning in January of 2019 staff has implemented a program to enable staff to meet with drivers and receive an overview of the statutory declaration questions as well as the consequences of the statutory declaration. Staff stated that the driver in this matter had been offered a number of opportunities to meet with staff to, but the appellant declined to attend all scheduled appointments. The appellant objected to staff's description and stated that they were contacted by staff one week after the appellant's licence expired seeking to set an appointment to discuss the driver's abstract. The appellant stated they could not attend the scheduled meeting due to it being a very busy time and the appellant called staff to inform them one hour prior. Following this, the appellant sought to call staff to set up an appointment and there was one further discussion to set up an appointment though this never materialised. The appellant stated that they called staff twice per day and received information that suggested the appellant's licence was being renewed. Despite these challenges, the appellant stated they are sorry for being difficult to contact during this time period.

In response to questions, staff clarified that this matter concerns a denial of a taxi renewal and should this appeal be denied, the appellant would have to make a new application in order to receive a taxi licence. The appellant raised the concern that if the appellant's appeal is denied, the appellant would have to apply for a new owner's licence as well. The appellant states that they previously waited ten years to receive an owner's licence and would likely have a long wait to receive a new licence, and also provided details of the financial value of owning a registered vehicle for hire.

In response to questions from the Committee, the Senior Solicitor informed the Committee that the bylaw is undergoing review from staff and changes are likely to coming to Regional Council this year. Though staff cannot provide much detail, changes are likely to aim to provide further guidelines with the intention to communicate greater certainty for staff and applicants. Staff added that there are however limitations as to what changes can be made due to restrictions imposed by the Motor Vehicles Act and the HRM Charter.

In response to questions from Councillors, the appellant stated that the driving infraction related to speeding was incurred while the appellant was driving a taxi, however this occurred off-shift while the appellant was driving home.

MOVED by Councillor Blackburn, seconded by Councillor Walker

THAT the Appeals Standing Committee allow the appeal of Claudio Benigno.

MOTION PUT AND PASSED.

13. MOTIONS – NONE

14. IN CAMERA (IN PRIVATE) – NONE

15. ADDED ITEMS

16. NOTICES OF MOTION

17. DATE OF NEXT MEETING – August 8, 10:00 a.m. Council Chamber, 3rd Floor City Hall, 1841 Argyle Street, Halifax

18. ADJOURNMENT

The meeting adjourned at 11:14 a.m.

Simon Ross-Siegel
Legislative Assistant