



**LICENSE APPEAL COMMITTEE
MINUTES
October 20, 2021**

PRESENT: Mark Everett, Chair
Ryan Baxter
Carine O'Brien

STAFF: Karen MacDonald, Senior Solicitor
Hilary Hayes, Supervisor, Licensing and Ticket Administrator
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 4:30 p.m. and recessed at 5:05 p.m. Committee reconvened in at 5:09 p.m. Committee moved into an In Camera (In Private) session at 5:46 p.m. and returned to public session at 5:54 p.m. and adjourned at 6:07 p.m.

1. CALL TO ORDER

The Chair called the meeting to order at 4:30 p.m. in Halifax Hall, 2nd Floor of City Hall, 1841 Argyle Street in Halifax. Several speakers participated in the meeting by telephone conference.

2. APPROVAL OF MINUTES – July 14, 2021 Special Meeting

MOVED by Ryan Baxter, seconded by Carine O'Brien

THAT the July 14, 2021 Special Meeting minutes be approved as circulated.

MOTION PUT AND PASSED.

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

Additions: None

Deletions: None

MOVED by Ryan Baxter, seconded by Carine O'Brien

THAT the agenda be approved as presented.

MOTION PUT AND PASSED.

4. CALL FOR DECLARATION OF CONFLICT OF INTERESTS – NONE

5. CONSIDERATION OF DEFERRED BUSINESS

5.1 Taxi Driver License Application Refusal, Kirk Withrow

The following was before the Committee:

- A staff recommendation report dated July 6, 2021

The Chair confirmed the Appellant was in attendance.

Lois Beaton-McNamara, License Administrator, presented the Appeal and answered questions of clarification from members of the Committee. Staff spoke to the timeline of staff's discovery of the charges outlined in the July 6, 2021 staff report at the relevance of those charges pursuant to Section 44.1 of By-Law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines. Staff recommended that Committee deny the appeal.

Kirk Withrow, the Appellant, presented their appeal and answered questions of clarification from members of the Committee. The Appellant provided evidence relating to the offenses, in particular stating that they were an unwitting partner in the activities leading to the charges and that the offenses pertain to cannabis.

In response to questions the Appellant stated that they were previously charged with several offenses in 2008, but between 2008 and 2015, the appellant has not been charged or convicted of any criminal offenses. The Appellant stated that they are an independent contractor with Bob's Taxi, and the Appellant is largely unsupervised in this relationship. Bob's Taxi procures customers for the Appellant through an office phone line. The Appellant stated that they were first licensed to drive a taxi in September of 2010.

The appellant confirmed that they are currently released on conditions of parole, and they have and continue to observe all conditions.

MOVED by Ryan Baxter, seconded by Carine O'Brien

THAT the License Appeal Committee grant the appeal.

Committee members discussed the appeal evidence and engaged in deliberation.

Karen MacDonald, Senior Solicitor, noted in response to questions from members that the Committee may refuse to grant the appeal based on other charges or offenses, and the Committee is not limited to its consideration of the offenses noted in the July 6, 2021 report.

Committee members noted the following factors as relevant to their decision:

- The criminal convictions from September 3, 2019 are related to cannabis, which in the members' opinion lessens the seriousness of the offenses from if they related to other more dangerous drugs listed under schedules within the Controlled Substance Act;
- The Appellant represents, and the members understand, that they were an unwitting partner in the offenses which led to the criminal convictions from September 3, 2019; and
- The appellant has served time in prison for the offenses and otherwise continues to observe the conditions of their parole.

MOTION PUT AND PASSED.

Simon Ross-Siegel, Legislative Assistant, noted that written notice of the Committee decision would be delivered by way of registered mail to the Appellant.

5.2 Refusal of Taxi Driver License and Owner Renewal, Douglas James Brine

The following was before the Committee:

- A staff recommendation report dated July 6, 2021
- Correspondence from Douglas James Brine and Ethel Beverly Brine

The Chair confirmed the Appellant was in attendance.

Lois Beaton-McNamara, License Administrator, presented the Appeal and answered questions of clarification from members of the Committee. Staff spoke to the timeline of staff's discovery of the charges outlined in the July 6, 2021 staff report and the relevance of those charges pursuant to Section 44.1 of By-Law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines. Staff recommended that Committee deny the appeal. Responding to questions from members, Beaton-McNamara stated that staff is unaware whether the offenses have led to convictions but noted that the next court appearance is scheduled for February of 2022. Staff stated that the Licensing Authority understands that there were previous offenses which led to convictions dating back to 2017. Staff understands that these offenses were the subject of deliberation at the Appeals Standing Committee following an appeal of the Licensing Authority's refusal of a driver license renewal application. In this matter, the Appeals Standing Committee allowed the appeal and overturned the decision of the Licensing Authority.

Alan Clarke, a witness for the Appellant (participating in the meeting by telephone conference), presented evidence on behalf of the Appellant. The speaker provided evidence relating to an incident relevant to the charge of assault causing bodily harm. The speaker stated that while observing the Appellant they witnessed the appellant being assaulted and did not observe the Appellant assault the assailant or respond in self defence.

Douglas James Brine, the Appellant (participating in the meeting by telephone conference), presented their appeal and answered questions of clarification from members of the Committee. The Appellant stated that the first charge relates to an incident in November of 2020 where the Appellant was charged with assault causing bodily harm. The Appellant provided background information relevant to the incident and gave evidence that they were assaulted and did not assault the assailant or respond in self defence. Responding to questions from members, the Appellant stated that they were later charged in January of 2021 with an offense for breach of an undertaking relating to the November 2020 assault charge. The Appellant stated that they were charged with driving while under the influence of alcohol. The Appellant stated that there is a court hearing date scheduled for 2022 for the offences and neither has been decided as of this time.

The Committee asked questions relating to the incident and events following the incident. The Appellant could not provide further detail in response to a question as to why the Appellant was charged with assault during the November 2021 incident despite having stated that they reported assault from the partner.

The Appellant acknowledged they have prior offenses dating back to 2012 which were the subject of a hearing at the Appeals Standing Committee.

Karen MacDonald, Senior Solicitor, noted in response to questions from members that the Committee is not limited to its consideration of offenses or convictions noted by the Licensing Authority in a staff report and may consider other offenses. However, in this case where the convictions related to 2012 were the subject of a prior deliberation before the Appeals Standing Committee for which an appeal was granted, it was not advised that the Committee consider these in making its decision. MacDonald also confirmed that if the Committee were to allow the appeal, and at a future time the charges were to result in convictions, the Licensing Authority may suspend of the Appellant's. Likewise, the Appellant would remain obligated under the by-law to report any convictions to the Licensing Authority, and failure to report would itself be a violation of the by-law which could result in a license suspension.

MOVED by Ryan Baxter, seconded by Carine O'Brien

THAT the License Appeal Committee convene In Camera (In Private) to obtain legal advice.

MOTION PUT AND PASSED.

MOVED by Ryan Baxter, seconded by Carine O'Brien

THAT the License Appeal Committee grant the appeal.

Committee members discussed the appeal evidence and engaged in deliberation.

Committee members noted the following factors as relevant to their decision:

- Based on their reading of By-law T-1000, convictions for offenses are not required, and the Committee may consider offenses as they relate to public safety; and
- The outstanding charges are serious in nature and sufficient for the License Appeal Committee to approve the decision of the Licensing Authority to deny the appeal;

MOTION PUT AND DEFEATED.

Simon Ross-Siegel, Legislative Assistant, noted that written notice of the Committee decision would be delivered by way of registered mail to the Appellant.

6. CORRESPONDENCE, PETITIONS & DELEGATIONS

6.1 Correspondence

6.2 Petitions – None

6.3 Presentations – None

7. INFORMATION ITEMS BROUGHT FORWARD – NONE

8. REPORTS

8.1 TAXI, LIMOUSINE & TRANSPORTATION NETWORK COMPANY LICENSING APPEALS – NONE

8.2 MEMBERS OF THE LICENSE APPEAL COMMITTEE

8.2.1 Proposed License Appeal Committee 2022 Meeting Schedule

The following was before the Committee:

- A staff memorandum

Simon Ross-Siegel, Legislative Assistant, provided an overview of a proposed meeting schedule for 2022 and answered questions of clarification.

9. ADDED ITEMS – NONE

10. DATE OF NEXT MEETING – TBD

11. ADJOURNMENT

The meeting adjourned at 6:07 a.m.

Simon Ross-Siegel
Legislative Assistant