

# HALIFAX

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

**Item No. 12.1.1**  
**Appeals Standing Committee**  
**May 4, 2017**

**TO:** Chair and Members of the Appeals Standing Committee

**SUBMITTED BY:** ORIGINAL SIGNED  
\_\_\_\_\_  
Bob Bjerke, Chief Planner and Director Planning & Development

**DATE:** April 11, 2017

**SUBJECT:** Appeals Report – Refusal of Driver License Application, Mr. Calvin Cole

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## **ORIGIN**

On March 24, 2017, Mr. Calvin Cole filed a Notice of Appeal (attached as Appendix A) regarding the refusal of his vehicle for hire driver license application.

## **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 August 2, 2016 Halifax Regional Police notified the Licensing Authority that Mr. Cole was charged with the following Motor Vehicle Act violations while operating a vehicle as a taxi.

- Operating Unregistered Vehicle
- No Insurance
- Revoked Driver License

The Licensing Authority also discovered:

- the vehicle in question Mr. Cole was operating was an unlicensed taxi displaying fraudulently modified taxi license sticker #D338, which actually expired on October 21, 2015.
- Mr. Cole also failed to notify the Licensing Authority or surrender his taxi driver license to the Licensing Authority upon the revocation of his NS driver license on December 14, 2015, in accordance with Section 47.4 of By-law T-1000.

On August 12, 2016, the Licensing Authority issued Mr. Cole a registered letter revoking his HRM taxi driver license which he did not appeal.

On February 22, 2017, Mr. Cole made application for an HRM taxi driver license. The application included a Statutory Declaration (attached as Appendix B) signed on February 22, 2017. Upon review of the document it was determined to contain false information. The specific question asking the applicant of any charges or convictions in the past 3 years was answered "NO". The Statutory Declaration signed by Mr. Cole was false and violated Section 45.1 of the Taxi and Limousine By-law T-1000.

After further review of Mr. Cole's application, it was identified that the NS Driver Abstract contained numerous suspensions (attached as Appendix C). The Licensing Authority contacted the Provincial Driver Compliance Office who confirmed Mr. Cole's aforementioned charges are still before the courts.

On March 10, 2017, the Licensing Authority issued a registered letter (attached as Appendix D) to Mr. Cole denying his application for an HRM taxi driver license in accordance with Section 44.2(c) and Section 45.1(c) of By-law T-1000.

On March 24, 2017, Mr. Cole submitted a Notice of Appeal to the Municipal Clerk's Office.

**DISCUSSION**

Section 44.2(c) of By-law T-1000 states:

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

Section 45.1(c) of By-law T-1000 states:

- 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:
- (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.

Taking into account the serious nature of Mr. Cole's deliberate actions and charges for using an unlicensed, unregistered and uninsured vehicle as a taxi, while his NS Driver's License was revoked, demonstrates a total disregard for the legal and safe operation of a motor vehicle. Therefore, the Licensing Authority deems it is in the public interest to refuse his application and consider him ineligible to apply for or to be granted a license under this by-law for a period of up to five (5) years.

**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.

**ATTACHMENTS**

Appendix A Notice of Appeal, dated March 24, 2017  
Appendix B Copy of Statutory Declaration, dated February 22, 2017  
Appendix C Copy of NS Driver's Abstract, dated February 22, 2017  
Appendix D Registered Letter, Refusal of Application, dated March 10, 2017  
Appendix E Copy of Municipal Clerk's letter dated March 27, 2017

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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

ORIGINAL SIGNED

Report Approved by:

\_\_\_\_\_  
Andrea MacDonald, Acting Manager, Buildings & Compliance, 902.490.7371

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# APPENDIX A

# HALIFAX

# VALID

HALIFAX REGIONAL  
MUNICIPALITY  
MAR 24 2017  
ORIGINAL SIGNED  
MUNICIPAL CLERK

NOTICE OF APPEAL  
REGARDING  
BY-LAW T-1000

THE REGULATION OF TAXIS & LIMOUSINES

I Calvin R. Cole 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 # \_\_\_\_\_ / Driver's license # \_\_\_\_\_ / Application)

The reason for appeal is:

Taxi licence denied and I don't agree with the decision.

\*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.

DATED at City Hall, Nova Scotia this 24 day of March, AD: 2017.

Calvin R. Cole  
Name of Appellant (please print)

ORIGINAL SIGNED

Signature of Appellant

SEND TO: Office of the Municipal Clerk

• Mail: P.O. Box 1749, Halifax, NS B3J 3A5

• Fax: 902-490-4208

• Email: [clerks@halifax.ca](mailto:clerks@halifax.ca)

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

(Address)

(Apt)

(City)

(Postal Code)

(Home Number)

(Work Number)

# APPENDIX B

## STATUTORY DECLARATION

I, Kalvin R. Cole, in the Province of Nova Scotia, do solemnly declare that the following particulars about myself are true.

NAME Cole (Surname) Kalvin (First)

RESIDENTIAL ADDRESS [REDACTED] CITY [REDACTED]  
PROVINCE N.S. 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 REFUSED?  
YES  NO  IF SO, WHY? \_\_\_\_\_

IN THE PAST 3 YEARS HAS YOUR NOVA SCOTIA DRIVER LICENCE EVER BEEN CANCELED OR SUSPENDED?  
YES  NO  IF SO, WHY? NI Insurance

IN THE PAST 3 YEARS HAVE YOU EVER BEEN CHARGED WITH, OR CONVICTED OF, ANY CRIMINAL OFFENCE OR ANY OFFENCE 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.

MAKING A FALSE STATEMENT ON THIS DECLARATION MAY RESULT IN AN APPLICATION OR LICENSE(S) BEING REFUSED OR CANCELLED.

Declared before me at Halifax Regional Municipality, in the Province of Nova Scotia, this 22 day of Feb, 2017

Abimbola Dada  
A Commissioner of the  
Supreme Court of Nova Scotia  
(A Commissioner of the Supreme Court of Nova Scotia)

ORIGINAL SIGNED

22/2/17

ORIGINAL SIGNED

Signature of Applicant

# APPENDIX C

  
**NOVA SCOTIA**  
Service Nova Scotia

PO Box 1852  
Halifax, Nova Scotia  
B3J 7Z3

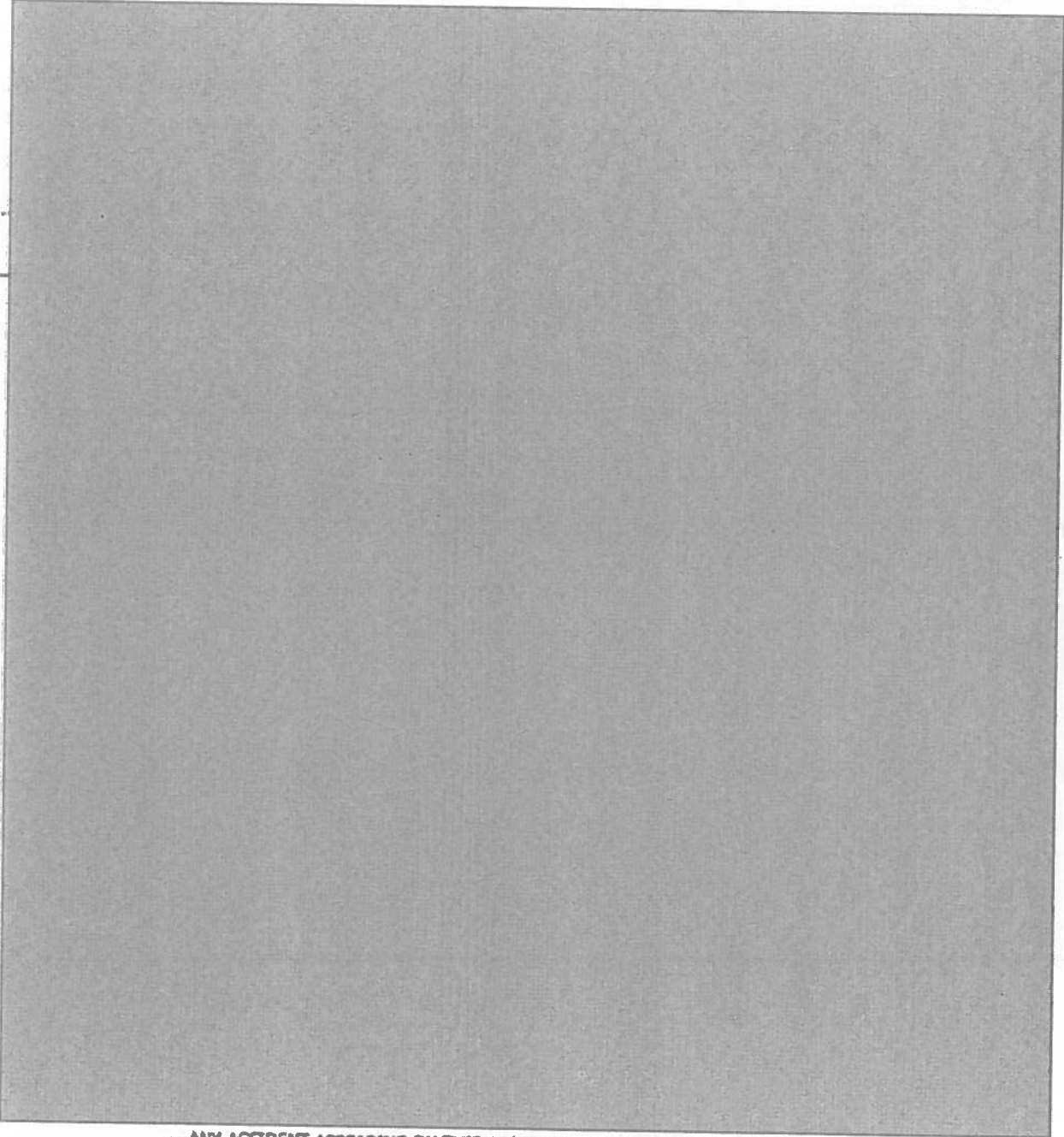
novascotia.ca

Feb 22, 2017

CLIENT RECORD ABSTRACT

(CLIENT USE)

PAGE: 1



---ANY ACCIDENT APPEARING ON THIS ABSTRACT IS FOR RECORD PURPOSES ONLY---  
AND DOES NOT INDICATE FAULT ON BEHALF OF THIS CLIENT

MISC

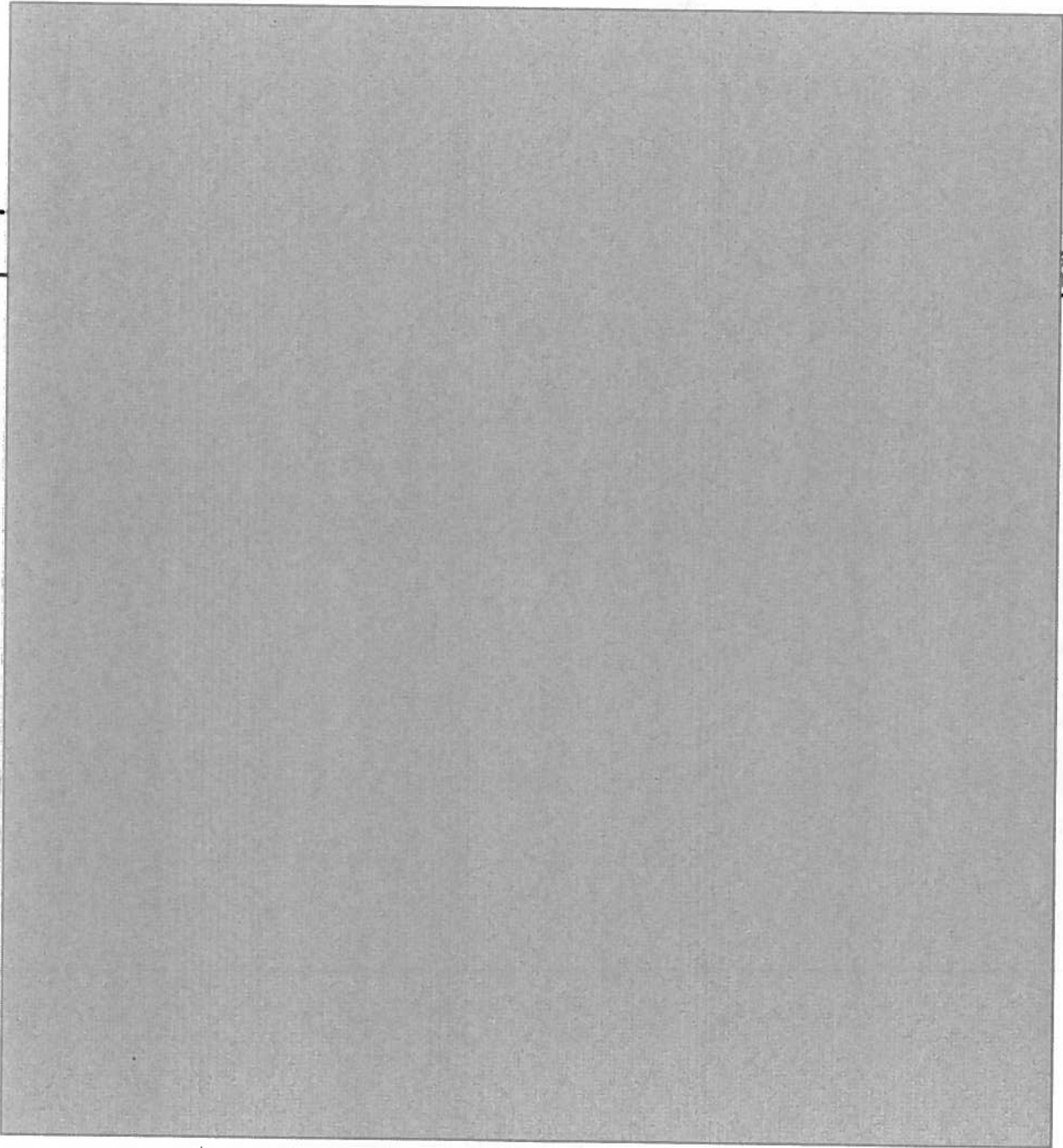
RMV-ABSTRACT-001

Feb 22, 2017

CLIENT RECORD ABSTRACT

(CLIENT USE)

PAGE: 2



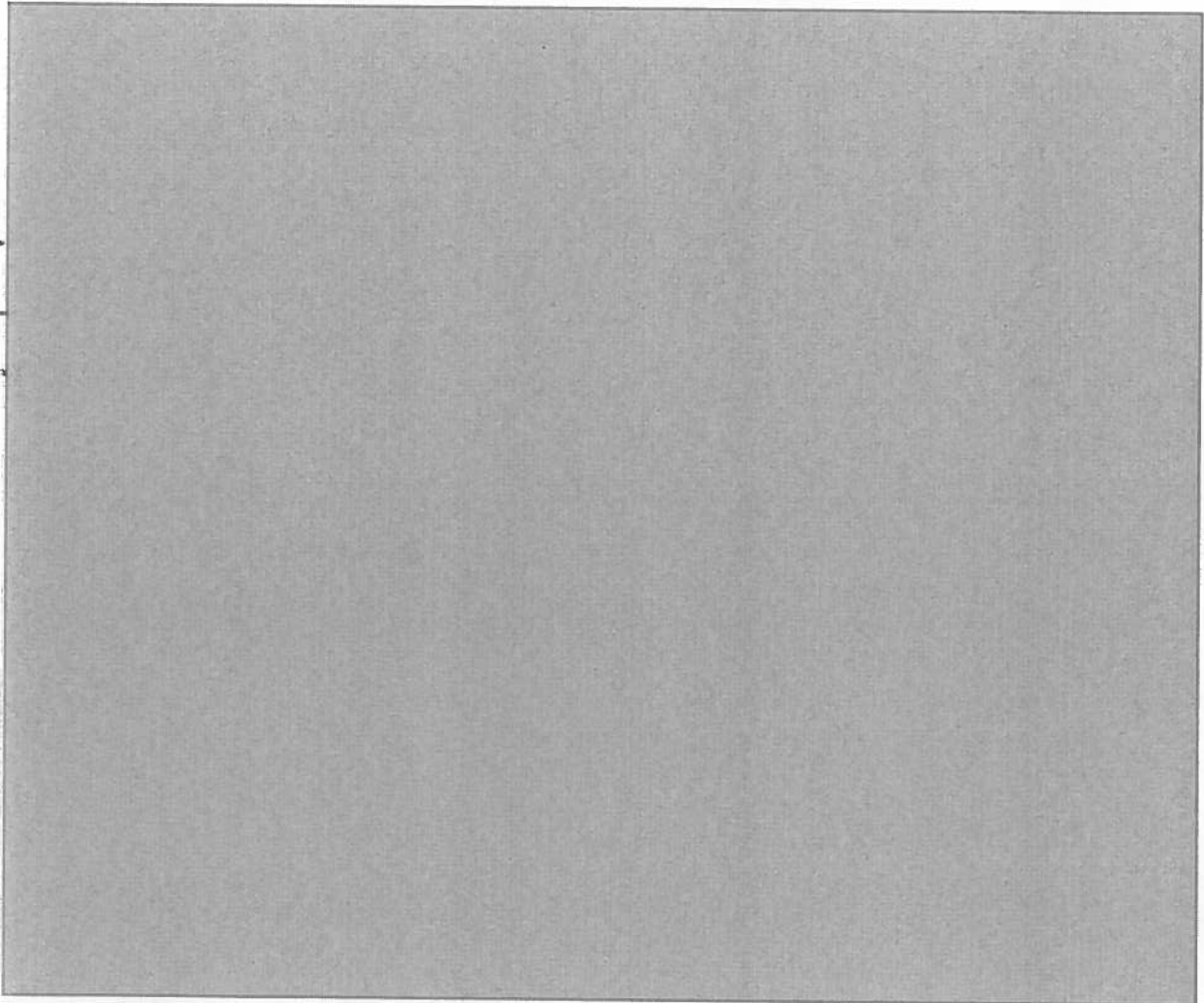
---ANY ACCIDENT APPEARING ON THIS ABSTRACT IS FOR RECORD PURPOSES ONLY---  
AND DOES NOT INDICATE FAULT ON BEHALF OF THIS CLIENT

Feb 22, 2017

CLIENT RECORD ABSTRACT

(CLIENT USE)

PAGE: 3



—ANY ACCIDENT APPEARING ON THIS ABSTRACT IS FOR RECORD PURPOSES ONLY—  
AND DOES NOT INDICATE FAULT ON BEHALF OF THIS CLIENT



# APPENDIX D

**REGISTERED LETTER**

March 10, 2017

Mr. Kalvin Cole  
[REDACTED]

REGISTERED DOMESTIC CU STORERS RECEIPT		RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT		<b>R</b>
No	Destination			
Name <i>Mr. Kalvin Cole</i>	Name			
Address	Address			
City / Prov. / Postal Code	City / Prov. / Code postal			
Details / Tarif	\$			
37-030-004 (14-03)				<b>RN 133 162 806 CA</b>

Mr. Cole,

This letter is in reference to your recent application dated February 22, 2017 for an HRM driver license.

In correspondence dated August 12, 2016 (attached) the Licensing Authority immediately revoked your HRM taxi driver license due to numerous charges under the Motor Vehicle Act while operating an unlicensed, uninsured motor vehicle as a taxi while your NS driver license was also suspended. The Licensing Authority also discovered that the vehicle in question had a fraudulently modified taxi license sticker.

The correspondences of August 2016 also advised you of your right to appeal the immediate revocation of your license which you chose not to exercise.

Upon review of your recent application it was identified that you made a false statement on your Statutory Declaration dated February 22, 2017 in which you failed to identify the aforementioned charges you have received within the last 3 years which are still before the courts.

The Licensing Authority considers it prudent to deny your application for an HRM driver license, in accordance with Section 44.2(c) and advise you are ineligible to apply for or to be granted a license under this by-law for a period of five (5) years in accordance with Section 45.1(c) of By-law T-1000, Respecting The Regulation of Taxis, Accessible Taxis and Limousines.

**HALIFAX**

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

halifax.ca

Pursuant to Section 44.2(c) of By-law T-1000 states in part:

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

- (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; or**

Pursuant to Section 45.1(c) of By-law T-1000 states in part:

**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:**

- (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.**

In accordance with Section 48.2 of By-law T-1000, Respecting the Regulation of Taxis, Accessible Taxis and Limousines, you have the right to appeal this refusal within 15 days from the date of the refusal.

**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 HRM Citizen Contact Center by calling 311 and an agent will assist you with your request.

Sincerely,

**ORIGINAL SIGNED**

Rowena Dill  
License Administrator  
Buildings & Compliance

# APPENDIX E

**REGISTERED MAIL**

March 27, 2017

Mr Calvin Cole  
[Redacted]

REGISTERED DOMESTIC CUSTOMER RECEIPT / RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT

No	Destinataire
Name	Nom
Address	Adresse
City / Prov / Postal Code	Ville / Proc / Code postal

HRM 55 6333  
RN 180 914 825 CA  
33-088-584 (1-88)

**Re: Appeal of the Licensing Authority revoking your HRM tax driver license #D676**  
Mr Cole,

This is to advise that your appeal of the Licensing Authority's decision to revoke your HRM tax driver license #D676 in accordance with Section 44.2(c) and Section 45.1(c) of By-law T-1000 will be heard by the Appeals Standing Committee on Thursday, May 4, 2017. The hearing will be held in the Council Chamber, 3<sup>rd</sup> Floor, City Hall, 1841 Argyle Street, Halifax, in a public session, open to the public and media. Please arrive for 10 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 Thursday, April 27, 2017 <http://www.halifax.ca/boards.com/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 902-490-6519.

Sincerely,

**ORIGINAL SIGNED**

Krista Vining  
Legislative Assistant  
Office of the Municipal Clerk

cc: Rowena Dill, License Administrator  
Kevin Hindle, Regional Coordinator License Standards  
Andrea MacDonald, Manager License Standards  
Scott Hill, Supervisor, Regional Compliance  
Natalie Matheson, Adjudication Clerk

Enclosure: Order of Proceedings for Appeals Standing Committee

# HALIFAX

Halifax Regional Municipality  
PO Box 1749, 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.