

HALIFAX

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

Item No. 12.1.2
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 Renewal Application, Mr. Doug Brine

ORIGIN

On March 24, 2017, Mr. Brine 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 February 28, 2017, Mr. Brine submitted to the Licensing Authority an application to renew his Vehicle for Hire driver license #H199.

Upon review of the application package, the Licensing Authority discovered that the Criminal Record Check provided (attached as Appendix B) was deemed to be unsatisfactory due to the following Criminal Convictions:

- SEC 145(5.1) CC Violation of Undertaking by Officer in Charge – August 2015
- SEC 733.1(1)(A) CC Fail to Comply w/ Probation Order – November 2015
- SEC 267(A) CC Assault with a Weapon – April 2016
- SEC 264.1(1)(A) CC Uttering Threats to CBH or Death – April 2016
- SEC 264.1(1)(A) CC Uttering Threats to CBH or Death – April 2016
- SEC 88(1) Possess Weapon Dangerous to Public Place – April 2016
- SEC 145(3) Fail to Comply with Recognizance – April 2016
- SEC 145(3) Fail to Comply with Recognizance – April 2016

On March 8, 2017, the Licensing Authority spoke to Mr. Brine on the phone to advise his taxi driver license application was under review due to his Criminal Record Check, and he would be notified by phone or mail once the review was complete.

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

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

DISCUSSION

Section 44.2(a)(b)(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
- (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; or

In reaching the decision the Licensing Authority is taking into account the following:

On March 4, 2015 the Licensing Authority met with Mr. Brine, over concerns regarding the numerous criminal convictions identified on his criminal record check. Mr. Brine had affirmed at that time that he had learned his lesson and would follow the terms and conditions of his release. It was stressed to Mr. Brine that his license renewal would be permitted at that time, however, on the condition that any further charges or difficulties abiding by the law could result in a permanent revocation of his taxi driver license.

Following the March 4, 2015 meeting, Mr. Brine accumulated additional criminal convictions. Mr. Brine failed to immediately notify the Licensing Authority of his new charges/convictions in accordance with By-law T-1000, 44.2(b). Mr. Brine's actions and inability to comply with the law and court orders raises public safety concerns. The Licensing Authority, in accordance with Section 44.2(a)(b) & (c) of By-law T-1000, considers it prudent at this time to consider Mr. Brine not sufficiently fit to hold a license to operate as a vehicle for hire driver.

FINANCIAL IMPLICATIONS

There are no financial implications.

RISK CONSIDERATIONS

The risks associated with this report are considered moderate and relate 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 Criminal Record Check, dated March 02, 2017
Appendix C Letter of Refusal, dated March 10, 2017
Appendix D Copy of Municipal Clerk's letter dated March 27, 2017

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 by: Kevin Hindle, Licensing Coordinator, License Standards, 902.490.2550

Report Approved by: ORIGINAL SIGNED
Andrea MacDonald, Acting Manager, Buildings & Compliance, 902.490.7371

APPENDIX A

HALIFAX REGIONAL
MUNICIPALITY
MAR 24 2017
ORIGINAL SIGNED
MUNICIPAL CLERK

March, 20/2017

VALID

To whom it may concern,

My name is Douglas James Brine and I am writing this letter to appeal the decision to renew my taxi license. It was denied based on some past mistakes I have made. I was denied my license because when they reviewed my criminal record check there was some charges for assault, uttering threats and possessing a weapon. I just wanted to explain myself in hopes that a positive outcome could come from this, and I can have my taxi license renewed and continue doing the job that I have enjoyed doing for the past 15 years.

For several months before these charges were laid I was continuously bullied by [REDACTED] I had issues with [REDACTED] every time I ran into [REDACTED] or seen [REDACTED] while leaving or outside my residence to have a cigarette or leave my home. On November, 2/2015 I stepped outside my residence to have a cigarette and [REDACTED] started to yell out threatening statements to me [REDACTED] Normally I would ignore them and continue doing what I am doing as if I do not hear them, [REDACTED] Being extremely frustrated with the continuous bullying coming from [REDACTED] I acted poorly and went into my home and picked up a small pot off the stove and went outside and threw it at [REDACTED] and told [REDACTED] to leave me alone. So [REDACTED] that evening called the police and told them that I tried to beat [REDACTED] with the pot and made threatening statements [REDACTED] which all was false and impossible considering [REDACTED] was still [REDACTED] and I was outside when this occurred. However I was convicted of the accusations. Because I know I am not guilty of this I do plan on appealing these convictions and have contacted a lawyer about doing so, as it is affecting my life I am trying to move forward and do well with. I am never typically a violent or angry person, however due to so much bullying I received over several months I got to the point I could not take much more. [REDACTED] to deal with the issue, and be sure I do not have this happen again. [REDACTED] Due to the situation's that occurred, [REDACTED] were advised by the Halifax police never to contact, speak to or approach me again under no circumstances and since then there has not been any issues between us.

Driving taxi has been a important part of my life for the past 15 years. With everything going on in the taxi industry in Halifax today, I take great pride and comfort in knowing I get my customers to their destination safe and sound. That is the most important part of my job and having that taken away from me will be very devastating. I have made many mistakes in the past that I will regret for the rest of my

life and cannot take back so all I can do is move forward and continue to try to do my best. I am living a whole new life in a different neighbourhood [REDACTED] and new home. I am trying to put everything in the past and move on. My job as a taxi driver is extremely important to me. I enjoy driving and meeting new people every day. I am very courteous, kind and respectful to everyone that gets in my car. I was punished for past mistakes and did my time, however I ask that you please reconsider so I do not have to be punished anymore by taking away my means of living and survival. If I could please have this last chance to prove myself I promise you will not regret it. Thank you so much for taking the time to read my story, and giving me a chance to explain myself. I truly hope that you will reconsider renewing my license and giving me another shot. I also enclosed a letter of reference from a lawyer by the name of Joshua Bearden whom I have driven home on numerous occasions. I also spoke with my probation officer and she advised me she was not allowed to write a letter of reference however if you would like to speak with her to confirm that there has not been any issues with me and getting myself into any trouble, and that I am doing very well with myself and my new life, then you are able to do so. Her name is Amber McDow and her telephone number is [REDACTED] and her fax is [REDACTED]

Thank you so much for your time. Yours Truly, Douglas James Brine [REDACTED]

ORIGINAL SIGNED



LEGAL AID
NOVA SCOTIA

Nova Scotia Legal Aid
Youth Office
401-5475 Spring Garden Road
Halifax, Nova Scotia B3J 3T2
T 902-420-6569
F 902-428-5736
www.nslegalaid.ca
hfxyouth@nslegalaid.ca

March 16, 2017

Rowena Dill
Licence Administrator
Buildings & Compliance
Halifax Regional Municipality
PO Box 1749
Halifax, NS B3J 3A5

Dear Rowena Dill:

RE: Douglas Brine

I am writing to confirm that I have been a customer of Douglas Brine while he was a licenced taxi driver in Halifax Regional Municipality.

At all times he has been courteous, professional, and responsible as a driver.

Please feel free to contact me if my letter raises any questions.

Sincerely,

ORIGINAL SIGNED

Joshua Bearden
Barrister and Solicitor

JB/sw

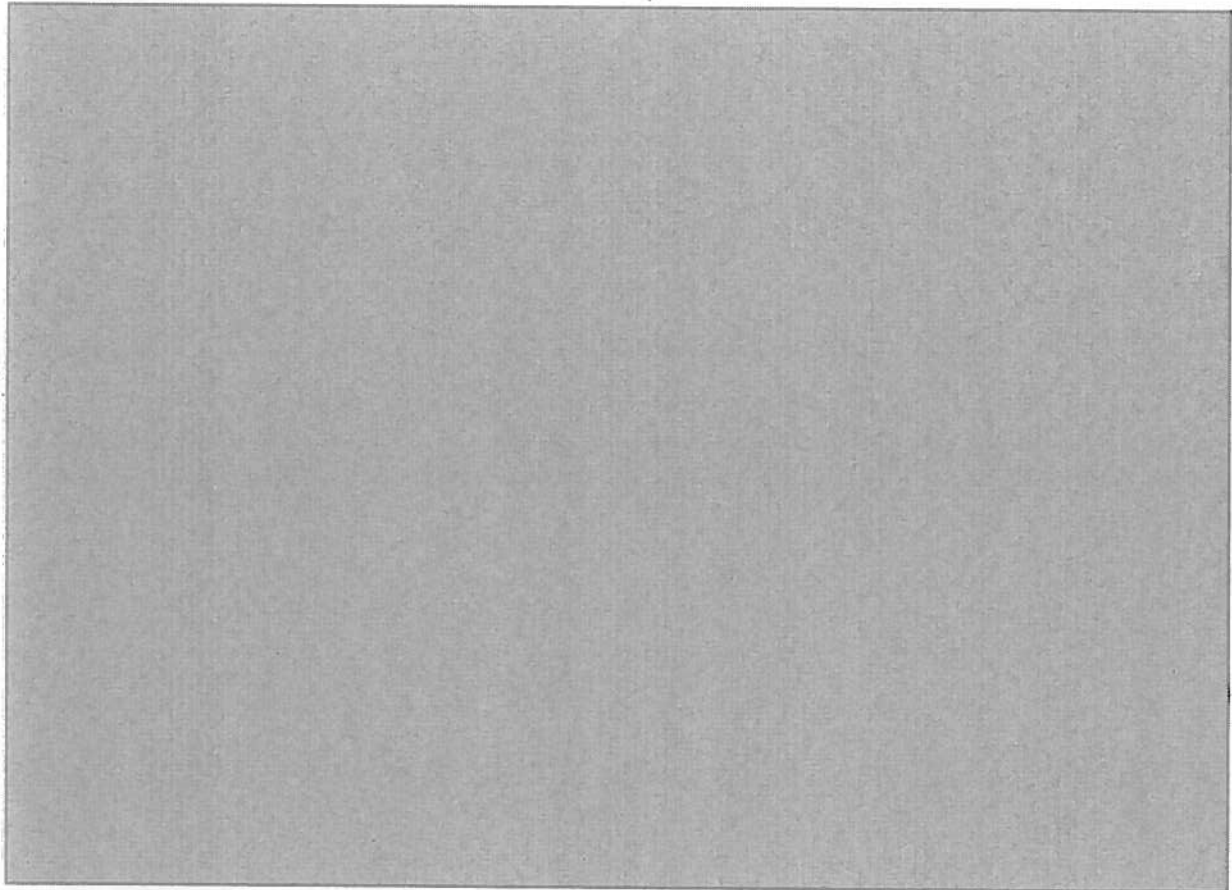
APPENDIX B



PARTNERS IN POLICING

FOR:

DOUG J BRINE



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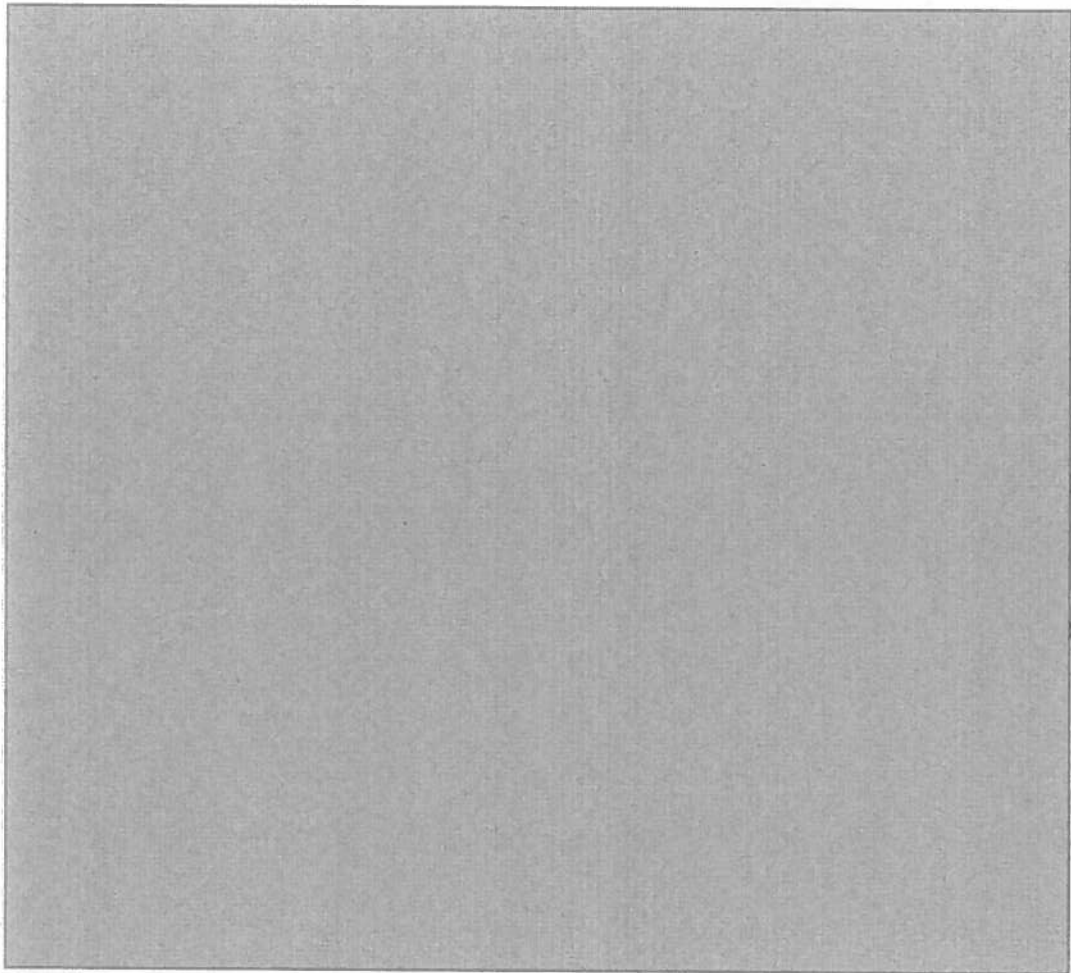
HALIFAX

Halifax Regional Police &
Halifax District RCMP
1975 Gottingen Street
Halifax, Nova Scotia B3J 2H1

HRP: 902.490.5016
halifax.ca/police
RCMP: 902.244.7208
rcmp-grc.gc.ca/ns



PARTNERS IN POLICING



Forward: 07 Mar 2017 13:14

HALIFAX

Halifax Regional Police &
Halifax District RCMP
1975 Gottingen Street
Halifax, Nova Scotia B3J 2H1

Page 2 of 3

HAP: 902 490 5016
halifax.ca/police
RCMP: 902 244 7206
rcmp-grc.gc.ca/ns



PARTNERS IN POLICING

THIS REFLECTS THE RECORDS OF THE HALIFAX REGIONAL POLICE AND CANADIAN POLICE INFORMATION CENTRE (CPIC)

This area for Certification Stamp

Processed by **ORIGINAL SIGNED** for Sgt. Anthony McNeil,
Records Supervisor

Printed: 03-Mar-2017 13:14

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HALIFAX

Halifax Regional Police &
Halifax District RCMP
1975 Gottingen Street
Halifax, Nova Scotia B3J 3A1

HAP: 902.490.5016
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APPENDIX C

REGISTERED LETTER

March 10, 2017

Mr. Doug Brine
[REDACTED]

REGISTERED DOMESTIC CUSTOMER RECEIPT
RECOMMANDÉ RÉGIME INTÉRIEUR R
Rég. en client

To: [REDACTED] B. [REDACTED]

Address: [REDACTED] [REDACTED]

City / Prov. / Postal Code: [REDACTED] [REDACTED] [REDACTED]

33-185-884 (1-800) R01 133 162 797 CA

Mr. Brine,

The HRM Licensing Authority has reviewed your recent renewal documents for HRM taxi driver license #H199.

Upon review of your recent Criminal Record Check dated March 2, 2017, we have noted several additional criminal convictions we were not advised of since the last renewal of your taxi driver license in March 2015. These 8 new convictions are dated between August 2015 and April 2016.

August 19, 2015

- SEC 146(5.1) CC Violation of Undertaking by Officer in Charge

November 23, 2015

- SEC 733.1(1)(A) CC Fail to Comply w/ Probation Order

April 13, 2016

- SEC 267(A) CC Assault with a Weapon
- SEC 264.1(1)(A) CC Uttering Threats to CBH or Death
- SEC 264.1(1)(A) CC Uttering Threats to CBH or Death
- SEC 88(1) Possess Weapon Dangerous to Public Place
- SEC 145(3) Fail to Comply with Recognizance
- SEC 145(3) Fail to Comply with Recognizance

The serious and dangerous nature of the criminal convictions, your continuous failure to comply with the law and court orders and your failure to immediately notify the licensing office of these events is a serious concern. The Licensing Authority has determined it is in the public interest to deny your renewal application for HRM taxi driver license #H199 in accordance with Sections 44.2(a)(b)(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(a)(b)(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

- (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; or**

Accordingly, you are no longer permitted to operate a vehicle for hire taxi or limousine in the Halifax Regional Municipality.

In accordance with Section 48.1 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.

48.1 A person whose application for the issuance or renewal of an owner's license or driver's license is refused by the Licensing Authority, or a person whose owner's license or driver's license is suspended, revoked or cancelled by the Licensing Authority, may appeal the refusal, suspension, revocation or cancellation to the Appeals Standing Committee within 15 days from the date of 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 D

CA ADP POST CANADA	REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To Nom	Destinataire Nom		
Address Adresse	Adresse		
City / Prov. / Postal Code Ville / Prov. / Code postal	Code postal		
33-085-584 (14-05)		RN 190 914 917 CA	

REGISTERED MAIL

March 27, 2017

Mr Douglas James Brine

Re: Appeal of Licensing Authority denying renewal of HRM taxi driver license #H199

Mr Brine,

This is to advise that your appeal of the Licensing Authority's decision to deny renewing HRM taxi driver license #H199 in accordance with Section 44.2(a)(b)(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, 3rd 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/boardscom/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.