



NOTICE OF DECISION
of the
MISSISSAUGA APPEAL TRIBUNAL
established pursuant to section 23.5 of the *Municipal Act 2001*

IN THE MATTER OF a Notice of Appeal, received on April 3, 2013, to the Mississauga Appeal Tribunal, by Abid Hussain, 1244 Ellenton Crescent, Milton, Ontario, L9T 6V3, of a Licensing Manager's decision to deny a renewal application request for a taxicab driver license under the City of Mississauga's Public Vehicle Licensing By-law 420-04, as amended (the "Appeal").

AND IN THE MATTER of the Hearing of the Notice of Appeal by the Mississauga Appeal Tribunal on July 30, 2013 in accordance with the provisions of the City of Mississauga's Public Vehicle Licensing By-law 420-04, as amended, and the *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22*, as amended.

BACKGROUND:

The Appellant has held two previous taxicab driver licences through the City of Mississauga (the "City"), first issued in 2011 and subsequently renewed in 2012. Upon application for renewal on March 15, 2013, the Appellant first disclosed a Highway Traffic Act conviction to a charge of speeding at 139 km/h in a 90 km zone. The conviction was as a result of a plea-bargain on an original charge of Stunt Driving – Drive at Rate Of Speed 50 KM/H Or More Over Speed Limit, and Speeding 145 KM/H in a 90 KM/H Zone. As a result of the Stunt Driving charge, the Appellant's Ontario Provincial Driver Licence was suspended for 7 days. The Appellant had not disclosed the suspension to the City contrary to section 26 of the By-law.

The Appellant testified that the incident which occurred in early hours of July 21st 2012, was caused by his fear from death threats uttered against him by four patrons in his taxicab.

The Licencing Manager testified that during his meeting with the Appellant on March 20th 2013, the Appellant did refer to certain disorderly conduct by the patrons in the taxicab on July 21st 2012, at the time of the incident. The licencing Manager's testimony did not include any reference by the Appellant to death threats being made at the time of the incident.

DECISION:

The Tribunal accepts as credible and prefers the testimony of the Licencing Manager over the Appellant's testimony. The Appellant's testimony as it concerns the events leading up to the laying of Highway Traffic Act charges appears to be tailored for the benefit of the Tribunal and is not credible, for the following reasons:

- The in-car video recording from the taxicab would have been available to the Appellant

**NOTICE OF DECISION
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Appellant: Abid Hussain, 1244 Ellenton Crescent, Milton, ON, L9T 6V3
Hearing Date: July 30, 2013

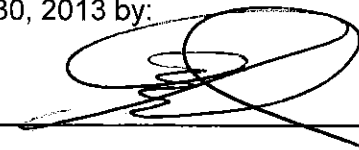
- at his Highway Traffic Act trial and before this Tribunal;
- The Appellant's testimony that the Police officer did not investigate the death threats alleged to have been made against him does not have the ring of truth; and
- The Appellant offered no plausible explanation for his failure to activate the taxicab emergency warning system.

For these reasons and considering the risk to public safety associated with speeding at a high rate of speed for which the Appellant was convicted, the decision of the Mississauga Appeal Tribunal is to uphold the decision by the City of Mississauga Licensing Manager to deny a renewal application request for a taxicab driver license to the appellant, under the City of Mississauga's Public Vehicle Licensing By-law 420-04 (the "By-law"), without prejudice to the right of the Appellant to reapply on or after the first anniversary of the expiry of the Appellant's previous taxicab licence (i.e.: March 15th, 2014), and without prejudice to the Licensing Section's normal discretionary powers as set out in the By-law.

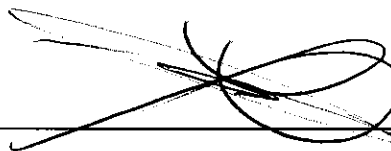
Issued by the Mississauga Appeal Tribunal on July 30, 2013.

Originally executed at the City of Mississauga on July 30, 2013 by:

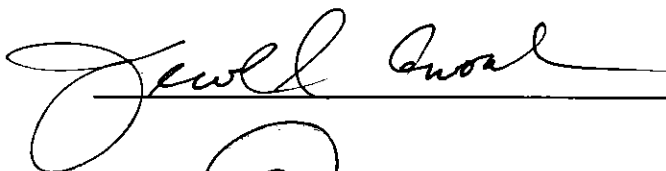
Leonard Lyn,
Chair and Citizen Member



Luc Laverrière,
Acting Vice-Chair and Citizen Member



Jewel Amoah,
Citizen Member



Roderick Chung,
Citizen Member



Encl.: Record of Proceeding dated July 30, 2013



RECORD OF PROCEEDING

THE CORPORATION OF THE CITY OF MISSISSAUGA

MISSISSAUGA APPEAL TRIBUNAL

TUESDAY, JULY 30, 2013 – 9:30 A.M.

**HEARING ROOM, CIVIC CENTRE
300 CITY CENTRE DRIVE, MISSISSAUGA, ONTARIO, L5B 3C1**

www.mississauga.ca

MEMBERS PRESENT: Leonard Lyn, Chair and Citizen Member
Luc Laverrière, Acting Vice-Chair and Citizen Member
Jewel Amoah, Citizen Member
Roderick Chung, Citizen Member

MEMBER ABSENT: Rafiq Rokerya, Vice-Chair and Citizen Member

APPELLANT: Abid Hussain

PROSECUTORS: Milena Commisso, Prosecution Office
Volga Pankou, Prosecution Office

STAFF PRESENT: Daryl Bell, Manager, Mobile Licensing Enforcement
Julie Lavertu, Mississauga Appeal Tribunal Coordinator

OTHERS PRESENT: Marilyn Sparrow, Legal Counsel, Mississauga Appeal Tribunal

CONTACT PERSON: Julie Lavertu, Mississauga Appeal Tribunal Coordinator
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This is a Record of Proceeding of the Mississauga Appeal Tribunal's Hearing regarding a Notice of Appeal by Abid Hussain (1244 Ellenton Crescent, Milton, Ontario, L9T 6V3), received on April 3, 2013, of a Licensing Manager's decision to deny a renewal application request for a taxicab driver licence under the the City of Mississauga's Public Vehicle Licensing By-Law 420-04, as amended.

CALL TO ORDER – 9:38 a.m.

DECLARATIONS OF DIRECT OR INDIRECT PECUNIARY INTEREST – Nil

INTERLOCUTORY ORDERS OF THE TRIBUNAL – Nil

WITNESSES

Luc Laverrière, Acting Vice-Chair and Citizen Member, administered the Oath or Affirmation as the case may be, to the individuals set out below at the time that the individuals were called to give evidence for the respective parties.

- The following individual testified on behalf of the City of Mississauga's Enforcement Division:

9:44 a.m. Daryl Bell, Manager, Mobile Licensing Enforcement

- The following individual testified on behalf of the Appellant:

10:15 a.m. Abid Hussain, Appellant

EVIDENCE ADMITTED BY THE TRIBUNAL

9:47 a.m. **Exhibit 1:** Documents Brief prepared by Milena Commisso and Volga Pankou, Prosecutors, Prosecution Office, served to the Appellant via courier on July 9, 2013 and containing the following documents:

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| TAB 1 | Notice of Hearing of the Mississauga Appeal Tribunal |
| TAB 2 | Licence Renewal Application for Abid Hussain, dated March 18, 2013 |
| TAB 3 | Interview Record for Abid Hussain of Daryl Bell, Manager, Mobile Licensing Enforcement, dated March 20, 2013 |

- TAB 4 Denial letter Re: Renewal of Taxicab Driver Licence, from Manager, Mobile Licensing Enforcement, Daryl Bell, dated March 26, 2013
- TAB 5 Ministry of Transportation Driver's Abstract for Abid Hussain, dated April 18, 2013
- TAB 6 Ontario Court of Justice, Province of Ontario, Information Re: TC366783 and TC366784
- TAB 7 Notice pursuant to Section 35 of the *Evidence Act*, R.S.O. 1990, c. E23

ADJOURNMENT – 1:54 p.m. (L. Laverrière)