



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 May 28, 2013, to the Mississauga Appeal Tribunal, by Rachhpal Singh, 84 Rollingwood Drive, Brampton, Ontario, L6Y 5R1, of a Licensing Manager's decision to deny the renewal of a Mississauga taxicab driver licence and an airport public transportation vehicle driver licence 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 August 21, 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, Mr. Rachhpal Singh, has been licenced to drive a Mississauga Taxicab Driver Licence ("Taxi Licence") in the City of Mississauga (The "City") since January 25th, 1999 and has been licenced to drive an Airport Public Transportation Drivers Licence ("Limousine Licence") in the City of Mississauga since October 7th, 2005. It appears that since obtaining the airport limousine driver licence, the Appellant has not been actively using his Taxi Licence.

On February 25th 2013, the Appellant applied to the City for renewals of both his Taxi and Limousine Licences. On the licence application renewal form, the Appellant indicated that he had not, since he was last licenced, been convicted of any offence under the Highway Traffic Act. The City's Licencing Section quickly discovered that this statement was not correct. In fact, the Appellant had since being licenced been convicted of 5 Highway Traffic offences, the most serious offence being the conviction of Speeding at 140KM/H in an 80KM/H Zone; total demerit points of 11 according to the Abstract dated, July 4, 2013.

The Manager of the Mobile Licencing and Enforcement Section of the City of Mississauga ("Licencing Manager"), Mr Daryl Bell, interviewed the Appellant on February 26th, 2013, and as result of that interview, and the state of the Appellant's driving record, made the decision pursuant to Section 12, (2) (4) of the Public Vehicle Licencing By-Law 420-04 not to renew either the Taxi or Limousine Licences. This

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decision was communicated to the Appellant in a series of letters dated February 28th 2013, May 1st 2013 and May 15th 2013. The Appellant has appealed the decision of the Licencing Manager to refuse to renew these licences.

Grounds of the Appeal are based upon the economic hardship to the Appellant and his family which they have experienced as a result of the denial of the licence renewal; the mitigating circumstances surrounding the various offences, and his otherwise acceptable driving record over a lengthy licencing period.

During testimony heard from the Tribunal, it was revealed that during a previous licence renewal of these licences on February 2nd 2009, the Appellant had also falsely stated that there were no recent convictions under the Highway Traffic Act, and had been cautioned regarding his driving habits by the then Licencing Manager.

DECISION:

The grounds given by the Appellant in his appeal are not fully satisfactory to the Tribunal. The Tribunal shares the Licencing Manager's concern for public safety and finds the Appellant's description of the circumstances surrounding the speeding offences to offer no real justification for the commission of the offences of which he has been convicted. Airport Limousine and Taxi drivers are entrusted with the safety of their passengers and the public generally, and any failure to operate their vehicle in compliance with the law can easily result in serious injury or death. The holding of a licence to operate public vehicles is not a right, but a privilege.

Notwithstanding the above, but for the December 4th 2012 conviction, the most serious conviction of the Appellant was 29KM/H over the posted speed limit. Although licence holders are responsible for consistently upholding the standards expected of public vehicle drivers, the Tribunal acknowledges but for one egregious speeding incident, the Appellant's driving record would not warrant the refusal of the renewal of the licences. The Tribunal cannot fault the Licencing Manager's decision under the circumstances which were presented to him; however, after careful consideration and with the benefit of a full hearing; the Tribunal has decided to grant the Appeal, in part:

- The decision of the Licencing Manager to refuse the renewal of the Limousine licence is upheld.
- The decision of the Licencing Manager to refuse the renewal of the Taxi Licence is varied to permit the granting of such licence upon the following conditions:
 - Prior to the issuance of the licence, the Appellant shall have successfully

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completed a "Defensive Driving Course" and a "Taxicab Driver Orientation Course" as defined in Section 1, of the City of Mississauga Public Vehicle Licencing By-Law 420-04 to the satisfaction of the Licencing Manager.

- The Appellant must advise the Licencing Manager within 3 business days of any convictions that result in the assessment of demerit points under the Highway Traffic Act between this date, and his next renewal date.
- The Appellant shall comply with all relevant requirements under the City of Mississauga Public Vehicle Licencing By-Law 420-04.
- The renewal of this licence is without prejudice to the Licencing Manager's discretions and authorities set out in the said By-Law.

Issued by the Mississauga Appeal Tribunal, on August 21, 2013.

Originally executed, at the City of Mississauga, on August 21, 2013 by:

Leonard Lyn,
Chair and Citizen Member



Luc Laverrière,
Acting Vice-Chair and Citizen Member



Roderick Chung,
Citizen Member



Encl.: Record of Proceeding dated August 21, 2013



RECORD OF PROCEEDING

THE CORPORATION OF THE CITY OF MISSISSAUGA

MISSISSAUGA APPEAL TRIBUNAL

WEDNESDAY, AUGUST 21, 2013 – 9:38 A.M.

COMMITTEE ROOM A, 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
Roderick Chung, Citizen Member

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

APPELLANT: Rachhpal Singh

APPELLANT'S
REPRESENTATIVE: Theresa Cobb, Quest Traffic Court Agency

PROSECUTOR: Roberta Craig, Prosecution Office

STAFF PRESENT: Daryl Bell, Manager, Mobile Licensing Enforcement
Sacha Smith, Mississauga Appeal Tribunal Coordinator

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

CONTACT PERSON: Sacha Smith, Mississauga Appeal Tribunal Coordinator
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sacha.smith@mississauga.ca

This is a Record of Proceeding of the Mississauga Appeal Tribunal's Hearing regarding a Notice of Appeal by Rachhpal Singh (84 Rollingwood Drive, Brampton, Ontario, L6Y 5R1), received on May 28, 2013, of a Licensing Manager's decision to deny the renewal of a Mississauga Taxicab Driver Licence and an Airport Public Transportation Vehicle Driver Licence, under 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:

9:45 a.m. Daryl Bell, Manager, Mobile Licensing Enforcement

11:06 a.m. Daryl Bell, Manager, Mobile Licensing Enforcement
(at the request of the Appellant's agent and with the agreement of the Chair, Mr. Bell was called for further questioning) .

- The following individual testified on behalf of the Appellant:

11:10 a.m. Rachhpal Singh, Appellant

EVIDENCE ADMITTED BY THE TRIBUNAL

9:43 a.m. **Exhibit 1:** Certified copy of the City of Mississauga's Public Vehicle Licensing By-law 420-04, as amended.

9:44 a.m. **Exhibit 2:** Documents Brief prepared by Roberta Craig, Prosecutor, Prosecution Office, served to the Appellant via courier on July 22, 2013 and containing the following documents:

- Tab 1 Letter of Appeal from Rachhpal Singh dated May 15, 2013
- Tab 2 Letter from Appeal Tribunal Co-ordinator to Rachhpal Singh dated May 15, 2013
- Tab 3 Amended Letter from Daryl Bell, Licensing Manager, to Rachhpal Singh Denying Renewal of Licenses dated May 1, 2013
- Tab 4 Letter from Daryl Bell, Licensing Manager, to Rachhpal Singh Denying Renewal of Licence dated February 28, 2013
- Tab 5 Interview Record dated February 26, 2013
- Tab 6 Ministry of Transportation Driving Record of Rachhpal Singh and Highway Traffic Act section references
- Tab 7 License Renewal Application dated February 25, 2013
- Tab 8 License Renewal Application and Driving Record Search printout with written notations dated February 2, 2009
- Tab 9 Mobile Licensing Taxi Driver Licence printouts from January 25, 1999 to February 19, 2013
- Tab 10 Mobile Licensing APTV Driver Licence printouts from October 7, 2005 to February 19, 2013

ADJOURNMENT –11:58 a.m. (L. Laverrière)