

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of

Hearing: March 9, 2017

Panel: Dr. (Hedy) Anna Walsh; Melina Laverty, Member

Re: Ahamed Basheer
Applicant for a Taxicab Driver (Vehicle-For-Hire Driver) Licence
(Application No. B543701)

Counsel for Municipal Licensing and Standards: Mr. David Gourlay

INTRODUCTION

1. The Applicant requested a hearing before the Toronto Licensing Tribunal (TLT) to determine whether or not a Taxicab Driver (Vehicle-For-Hire Driver) Licence should be issued, have conditions placed on it, or be denied.
2. The central issue was whether the Applicant's history of criminal and Highway Traffic Act charges and convictions provide reasonable grounds to believe that his operation of a Taxicab (Vehicle-For-Hire) would pose a risk for the public's safety.
3. After hearing the evidence submitted by the City and the Applicant, as well as the submissions of both parties, the Tribunal ordered that a Vehicle-For-Hire Driver's Licence not be issued for reasons as set out hereafter.

CITY'S EVIDENCE

4. The City called one witness to testify on its behalf. Ms. Olga Kuztelska, Supervisor of Municipal Licensing and Standards (MLS) Bylaw Enforcement, testified after being affirmed. She reported that Report No. 6535, ("the report") dated September 22, 2016 was created by MLS staff, was signed by Mr. Terry Van Elswyk, former Supervisor of Licensing Services and that she had reviewed it and could attest to its contents. It was entered into evidence and marked as Exhibit #1.
5. Ms. Olga Kuztelska referred to:
 - a Criminal Records Check, from York Regional Police, dated November, 20, 2015 revealing 4 charges and 2 convictions, including that of Assault and Careless Storage of a Firearm, Weapon, Prohibited Device or Ammunition with a Disposition of Suspended Sentence and Probation of 12 months, (8 days pre-sentence custody) and a \$1000 fine (pages 4-5);
 - a Record of Arrest, issued April 5, 2011 (page 41);
 - a Synopsis of Record of Arrest, issued April 5, 2011, revealing 4 charges, including that of Assault, Threatening Death, Firearm Careless Storage and Careless Storage Ammunition, stemming from a domestic dispute

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between the Applicant and the victim in their home, with arrest of the Applicant, 4 criminal charges issued and 2 convictions (page 44);

- a Record of a Show Cause Hearing, dated April 5, 2011 (page 48);
- a Supplementary Record of Arrest, dated April 5, 2011, revealing Bail opposed due to Applicant's history of domestic abuse, poor anger control and access to firearms (pages 50-51);
- an abstract from the Ontario Ministry of Transportation, dated December 3, 2015, revealing Highway Traffic Act charges and convictions against Mr. Basheer including that of a driving offence on June 8, 2012 of driving 65 km. in a 50 km. zone and a conviction in January, 8 2013, as well as an offence dated September 14, 2015, for failing to have an insurance card with a conviction on September 18, 2015 (page 9);
- a chart from the Ontario Ministry of the Attorney General's Integrated Court Offences Network ("ICON"), dated September 22, 2016 related to Mr. Basheer's driving record, revealing nine (9) Highway Traffic Act charges and five (5) convictions and four (4) charges pending disposition in court on April 07, 2017 and 4 criminal charges and 2 convictions (pages 10-11).

6. Mr. Basheer did not cross-examine Ms. Olga Kuztelska and her evidence was therefore unchallenged.

APPLICANT'S EVIDENCE

7. The Applicant appeared on his own behalf, without legal representation, was duly sworn and testified to the contents of the report. The Applicant was advised of his right to have legal representation and indicated that he wanted to proceed without legal representation.
8. The Applicant testified that on April 5, 2011, he was arrested as a result of a domestic dispute with his wife, and that firearms used for the purpose of his work as an actor, were found to be unsafely stored in a cupboard in his home.
9. He reported having difficulty securing steady employment in the film industry, due to competition inherent in the field.
10. He stated that on September 14, 2015, he was caught driving a vehicle in Scarborough, after accidentally turning into a wrong street. He claimed to have had insurance, but was driving a friend's car and did not have the insurance card in his possession.
11. He claimed to be living "peacefully" for the last three years with his wife, and that his wife regretted having called the police on April 5, 2011 and "took responsibility" for his arrest. He provided two letters dated May 29, 2012 and March 09, 2017 related to this, that he claimed were signed by his wife and witnessed by his son, as well as pictures of him acting where he required firearms as props, that were entered into evidence and marked as Exhibit #2.
12. On cross-examination, he claimed to have pleaded guilty to all his criminal and

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Highway Traffic Act charges and convictions because his paralegal advised him to "plead guilty". He denied physically harming his wife, that it was not an "assault", but rather a "skirmish" that resulted in him "grabbing the phone" and his wife placing the ammunition in the cupboard, as per the "instructions from her boyfriend" whom she had been involved with at the time.

13. He acknowledged having drafted the letters dated May 29, 2012 and March 9, 2017 that he claimed were signed by his wife and witnessed by his son. He claimed that his wife was unavailable to testify on his behalf, as she was working full time. He claimed that she took responsibility for the "emotional outburst" that resulted in his arrest on April 5, 2011. He reported that they were living separately in the same house at the time, that she was involved with her boyfriend, and that he became upset and had thrown food on the floor, because she had cooked a meal for her boyfriend, with the groceries that he had purchased. He claimed that this "skirmish" did not involve "hitting his wife", but rather "just pulling the phone from her hand." He denied knowing how the firearms and ammunition were moved from the shelf to the cupboard and claimed that it was his "wife's responsibility to store it".
14. He reported that he was charged on June 8, 2012 for speeding because he was in a rush to take his son to his karate class. He claimed that he was also charged on September 14, 2015 with not having his insurance card on him because he did not know that he needed to have registration from the Ministry, nor did he know that he could not use his own licence plate while driving a dealership car, because he had not been told otherwise by the dealership.
15. He claimed to have attended 16 anger management classes as ordered by the court, but did not participate in any ongoing program and was not receiving any marital counseling. He reported being a "naturally peaceful person."
16. He reported being in Canada since 1989, that he was born in India, that his wife is Vietnamese, that they were married in India, and that this was an arranged marriage by his family. He reported having lived in Montréal, Québec, from 1989 to 1991 before having arrived in Toronto in 1991. He stated that he is currently living with his wife, that they have 3 children, two of which live on their own, and that their youngest child is a first-year student at the University of Waterloo and that he continues to support him and that his wife supports herself.
17. He reported being employed in Toronto as an actor. He reported having worked in the past as an accountant in Thailand, in the Middle East and briefly in Canada when he first arrived. He reported having also worked in Toronto, in the past, as a security supervisor.
18. He claimed to want to drive a taxi part-time to supplement his current stream of income as an actor and that this type of work was well within his physical ability and could accommodate his "chronic diseases" of high blood pressure, diabetes, arterial and kidney ailments. He reported being 63 years of age and currently unable to secure employment in the accounting industry or as a security guard due to his age.

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19. He reported that his wife has been involved with this boyfriend for 7 years, that he is "unlawful," and that they are currently "just good friends". He claimed to want to preserve his marriage for the "sake of his children."
20. The Applicant did not call any witnesses to testify on his behalf.

CITY'S SUBMISSIONS

21. In his closing submissions, Counsel for MLS, submitted that a Taxicab Driver (Vehicle-For-Hire Driver) Licence for Mr. Basheer should not be issued, as he had criminal and Highway Traffic Act charges and convictions which pose serious concerns for MLS.
22. There were four (4) criminal charges, two (2) criminal convictions and nine (9) Highway Traffic Act charges, five (5) convictions, and four (4) charges pending disposition. Mr. Basheer did not acknowledge his convictions of Assault and Careless Storage of a Firearm and although it is a domestic situation, his lack of responsibility for his wrongdoings directly relate to his honesty and integrity. He also claimed to have other means of financial support and was only interested in securing a licence in order to supplement his current stream of income. Given the nature of his criminal and Highway Traffic Act charges and convictions, as well as his failure to acknowledge them, there are reasonable grounds to believe that Mr. Basheer has not complied with the law in the past, and that he will not comply with the law in the future.

APPLICANT'S SUBMISSIONS

23. The Applicant claimed to want to work part-time as a Taxicab Driver (Vehicle-For-Hire Driver) to supplement his current income. He claimed that he had tried to secure employment in the past as an accountant, but had been unsuccessful and was currently unable to work as a security guard because of his criminal record.

DECISION

24. The Tribunal ordered that Mr. Basheer be denied a Taxicab Driver (Vehicle-For-Hire Driver) Licence.
25. The strong and convincing evidence presented at the hearing of Mr. Basheer's criminal and Highway Traffic Act charges and convictions provide reasonable grounds to believe that he has not complied with the law in the past and will not carry on the operation of a Taxicab Driver (Vehicle-For-Hire Driver) with integrity and honesty, and that the issuance of a Taxicab Driver (Vehicle-For-Hire Driver) License would constitute a danger to members of the public.
26. In addition to his criminal and Highway Traffic Act charges and convictions, the Applicant displayed no remorse or acknowledgment for any of his wrongdoings

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and rather assigned blame to other individuals, such as his wife, his wife's boyfriend, his paralegal, a car dealership, and a friend.

27. In its determination of whether a licence be issued, refused, or have conditions placed upon it, the Tribunal also considered section 546-8 (3)(c), the need for the Applicant to earn a living, while balancing the protection of the public interest. The Tribunal took note of the Applicant's other means of financial support through his work as an actor, that his older children were no longer living at home and were self-sufficient, that his wife was working full-time and that his only child at home was a full-time student at the University of Waterloo and was receiving government financial assistance through OSAP (Ontario Student Assistance Program).
28. The rules governing Taxicab Drivers exist for a reason: to protect the safety of the public and to ensure the performance of activities with integrity and honesty. Accordingly, considering all the evidence and the submissions of Counsel for the City of Toronto and the Applicant and based on the totality of all of the evidence as outlined above, the Tribunal decided that the application for a Taxicab Drivers License be denied, in order to protect the health and safety of the public, in accordance with Section 546-4 (A), subsections (1), (2) and (5) of the Toronto Municipal Code.

Originally Signed

Dr. (Hedy) Anna Walsh, Chair
Panel Member, Melina Lavery concurring

[Reference: Minute No. 77/17]

Date Signed: April 6, 2017