

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

**Date of
Hearing:**

October 8, 2015

Panel:

Lori Marzinotto, Chair; Aly Alibhai and (Hedy) Anna Walsh, Members

Re:

Mr. Xiao Bo Bai
Applicant for a Driving Instructor's Licence (Application No. B535502)

Counsel for Municipal Licensing and Standards:

Ms. Amy Murakami

Counsel for Applicant:

Unrepresented

INTRODUCTION

Xiao Bo Bai ("Mr. Bai") has applied for a Driving Instructor's Licence.

The issue is whether it is in the public interest for the Tribunal to grant Mr. Bai a Driving Instructor's licence, considering Mr. Bai's convictions under Chapter 545 of the *City of Toronto, Municipal Code* (the "Code"). Specifically, operating without a Driving Instructor's licence.

Mr. Bai understood that he had a right to legal counsel and he decided to proceed without representation. Ms. Rubing Wang, Mandarin Interpreter, assisted Mr. Bai during the hearing.

Mr. Bai held a Driving Instructor's licence between June 20, 2005 to September 20, 2010 and again between January 19, 2012 to April 21, 2013.

For the reasons that follow, the Tribunal has decided not to grant Mr. Bai a Driving Instructor's Licence.

CITY'S EVIDENCE

Mr. Terry Van Elswyk, Supervisor of the Municipal Licensing and Standards branch of the City of Toronto ("MLS"), Identified Report No. 6437, dated August 5, 2015. The report was entered into the record as *Exhibit #1*.

Mr. Van Elswyk testified that Mr. Bai had a record of by-law charges and convictions under the Code. Mr. Van Elswyk testified that Mr. Bai had been charged and convicted six (6) times with operating a driving school without a licence between October 11, 2013 to October 28, 2014. As a result of these convictions, Mr. Bai had incurred a number of demerit points and as a result, did not meet the Business Licensing Threshold as required in the *Code*.

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Mr. Van Elswyk indicated that after Mr. Bai had submitted his application for a licence on April 21, 2015, he had been charged with two (2) additional offences on July 20, 2015, for operating a driving school without a licence and for his vehicle not being recorded with MLS (*Exhibit #1*, pg. 29). Mr. Van Elswyk stated that a court date for these charges (summons TB640759 and TB640758) had been rescheduled to November 24, 2015.

Mr. Bai did not cross-examine Mr. Van Elswyk.

APPLICANT'S EVIDENCE

Mr. Bai stated that he was unaware that the demerit point system would affect his application. Mr. Bai indicated that the application process is long and he needed to earn money to support his family.

Mr. Bai presented the Tribunal with a form from MLS outlining the required documents to be submitted by May 21, 2015, in order for MLS to process his application. This was entered as *Exhibit #2* without objection from the City.

Mr. Bai presented the Tribunal with a package of documents which was entered as *Exhibit #3* without objection from the City.

Mr. Bai did not have any further evidence.

The City's Counsel cross-examined Mr. Bai. Mr. Bai admitted that he had been a driving instructor for approximately ten (10) years and that he was aware that he required a licence to operate as a Driving Instructor. Mr. Bai also admitted that he had been operating as a Driving Instructor without a licence when he was charged on October 11, 2013, November 18, 2013, May 5, 2014, May 13, 2014, October 6, 2014 and on October 28, 2014.

DECISION

The Tribunal is concerned with Mr. Bai's numerous and repeated convictions for operating without a Driving Instructor's licence and not having his vehicle recorded with MLS. Between October 11, 2013 and March 25, 2014, Mr. Bai was charged and convicted six (6) times with operating a driving school without a licence, further charged and convicted with not having his vehicle recorded with MLS and, on July 29, 2015, Mr. Bai was again charged with operating a driving school without a licence and with not having his vehicle recorded with MLS.

Mr. Bai knew the licensing requirements to operate as a Driving Instructor. Mr. Bai was aware that he required a licence in order to operate as a driving instructor and held such a licence between June 2005 and September 2010 and subsequently between January 2012 and April 2013. Mr. Bai was familiar with the application process and the annual renewal process. He knew the difference between the application and an actual licence and was aware that once issued, he would receive a physical plate and a physical identification card. Mr. Bai was given neither a physical plate nor a photo identification card after submitting his application dated April 21, 2015.

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Mr. Bai did not show any regret or remorse for his actions. Mr. Bai stated that he had to work illegally in order to support his family. He stated that the process to get a licence was too long. The Tribunal is of the view that Mr. Bai knew how long the process took and should have planned accordingly. While the Tribunal appreciates Mr. Bai's need to work, he must comply with the City's licensing requirements in order to protect the public interest.

The City licences business for a reason: to protect the public safety and to ensure licensees act with honesty and integrity and in accordance with the law. Mr. Bai's actions indicate that he has not complied with the law and will not comply with the law, which poses a threat to public safety.

For these reasons the Tribunal ordered that the licence be denied.

Originally Signed _____

Lori Marzinotto, Chair

Panel Members, Aly Alibhai and (Hedy) Anna Walsh concurring

[Reference: Minute No. 154/15]

Date Signed: November 19, 2015