

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

**Date of
Hearing:**

April 16, 2015

Panel:

Ted Yao, Chair; Leigh Lampert and David Peacock, Members

Re:

Mr. Doe

Applicant for Renewal of Taxicab Owner's Licence No. V02-_____ for
Ambassador Taxicab Plate No. A_____

Counsel for Municipal Licensing and Standards:

Mr. Matthew Cornett

INTRODUCTION

The issue is whether Mr. Doe's 1 taxicab owner's licence be renewed with or without a one year probation. "Probation" means that at the next renewal period, Mr. Doe would have to submit a new criminal record check, a measure intended to deter any fresh criminal activity on his part. We renew without any probation.

Mr. Doe has had the ability to carry fare paying passengers since 1994. A criminal record check in 2013 revealed that he had been convicted in 2009 of criminal harassment and assault, from events involving an individual who was not a taxi customer. The assault was a shoving. The judge sentenced him to 60 days conditional, which sentence was not served because he fully complied with all the conditions. He was required not to possess a weapon until 2019 (there was no weapon involved in the incidents). He had to meet regularly with his probation officer and taking an anger management course, both of which he has done. Thus, he was not jailed, except for the four days pretrial custody already served by the time of the trial.

Mr. Doe provided us with the judge's decision, which we read and did not file, because it is subject to a publication ban. The publication ban is pursuant to S. 276.3 of the Criminal Code, which prohibits the publishing of the decision and the purpose of which is to protect the identity and privacy of the persons involved.

Provision of decision was in response to the City's question, "What were the facts alleged by the complainant that led to the convictions?" Mr. Doe replied that he had some difficulty answering this question because of the publication ban and offered to allow Mr. Cornett (the City's lawyer) to read it, which Mr. Cornett did. Out of an abundance of caution and to avoid any possibility that this hearing process may have caused Mr. Doe, Mr. Cornett or this panel to contravene the publication ban, we have used an alias for Mr. Doe.

Mr. Doe answered forthrightly all the questions posed by the City. He does not have any further association with the complainant. He says he has learned from the experience

The name "Doe" is a pseudonym that is used because of the publication ban referred to in paragraph 3.

April 16, 2015

and is more responsible. He said that the public was and will not be in danger from his convictions, which we accept, and this assertion closely follows the By-law test that we must apply: whether that there is a danger to the public. We find there is not.

At the time the City refused Mr. Doe's licence, the convictions were four years old and now they are almost six years old. The By-law classifies criminal convictions which have occurred within the last five years as more serious than the same ones if they happened more than five years ago. That is, the By-law allows the licence issuer more discretion when, as has happened here, convictions are more than five years old and the record is otherwise unblemished. As we have set out, the convictions were not in relation to his cab driving and the test is whether the public is endangered. Indeed he drove from 2009 (date of the convictions) to 2013 (date of submission of the criminal record check to the City) without incident.

DECISION

We therefore decline to follow the City's recommendation and renew Mr. Doe's licence without conditions.

Originally Signed _____

Ted Yao, Chair

Panel Members, Leigh Lampert and David Peacock concurring

[Reference: Minute No. 40/15]

Date Signed: May 28, 2015