

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of

Hearing: January 12, 2017

Panel: Daphne Simon, Chair; Aly N. Alibhai and (Hedy) Anna Walsh, Members

Re: Abdullah Khalid
Applicant for a Vehicle-For-Hire Licence (Application No. 8653380)

Counsel for Municipal Licensing and Standards: Mr. David Gourlay

BRIEF BACKGROUND

1. Mr. Abdullah Khalid ("Mr. Khalid") has requested to appear before the Toronto Licensing Tribunal (the "Tribunal") to determine whether or not a Vehicle-For-Hire licence should be issued, have conditions placed on it or if the application should be denied.
2. The City takes the position that the application should be denied and that a licence should not be issued.
3. Mr. Khalid chose to represent himself at the hearing and acknowledged that he understood that he had the right to have legal representation.

CITY'S EVIDENCE

All witnesses who gave evidence at the hearing were sworn or affirmed. The City called one (1) witness.

4. Ms. Olga Kuztelska, ("Ms. Kuztelska"), Supervisor, Municipal Licensing and Standards ("MLS"), identified MLS Report # 6687 dated September 14, 2016, and an update dated January 6, 2017 consisting of forty-five (45) pages (the "Report"). Mr. Gourlay submitted this Report as evidence, without objection from Mr. Khalid. It was marked as Exhibit # 1. Part of Ms. Kuztelska's duties is to review the Report to ensure that all information in the Report is brought before the Tribunal in a fair and accurate way.
5. Ms. Kuztelska identified the following portions of the Report:
 - Page 5 - Police Information Check identifying Abdullah Khalid as a possible match to a registered criminal record
 - Page 6 - Police Information Check- Supplementary Information- Assault Causing Bodily Harm -outstanding criminal charge
 - Page 9 - Chart of Highway Traffic Act and Criminal Code charges and convictions registered against Mr. Khalid
 - Pages 29-31 - Occurrence Details of the Assault Causing Bodily Harm charge
 - Page 35 - Details of a speeding charge dated December 4, 2015 of 167 km/h in a 100 km/h zone

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- Page 38 - Chart of updated Highway Traffic Act charges, that occurred on October 24, 2016, all of which are still before the courts
 - Page 45 - Recent Driver's Record for the past 3 years
6. Ms. Kuztelska testified that Mr. Khalid was charged with Assault Causing Bodily Harm stemming from an altercation that took place at Castlebrooke Secondary School. The incident which occurred on March 30, 2016, started as a verbal exchange between Mr. Khalid and another male student. The verbal exchange escalated to shoving but the two were separated before a full fight ensued and both went their separate ways to class. After class, the other male student was leaving the building and Mr. Khalid approached him and instigated a fight by grabbing him and shoving him. Mr. Khalid sustained injuries to the cartilage of his nose while the other student required 2 stitches above his eye. On April 4, 2016, four (4) days after the incident, Mr. Khalid was charged with Assault Causing Bodily Harm under the *Criminal Code of Canada*.
 7. Ms. Kuztelska testified that a search of the Integrated Court Offences Network (ICON) records indicated that the next court date for the matter is scheduled for March 8, 2017. A printout from the ICON system showing this was marked as Exhibit #2.
 8. Ms. Kuztelska referred to several charges and convictions under the Highway Traffic Act (HTA):
 - i) The first charge took place on December 4, 2015. Mr. Khalid was charged with Speeding at 149 km/h in a 100 km/h zone. The police information shows him travelling at 167 km/h in a 100 km/h zone. He was convicted on January 11, 2016, paid a fine of \$423.00 and his licence was suspended for seven (7) days.
 - ii) The second was a conviction for Disobey Sign under the Highway Traffic Act for which Mr. Khalid was convicted on April 18, 2016 and paid a fine of \$155.00.
 - iii) The third relates to several HTA charges that took place on October 24, 2016. Mr. Khalid was charged with Speeding 125 km/h in a 60 km/h Zone; Operating a Motor Vehicle While Performing a Stunt, Drive Motor Vehicle No Permit; and Unsafe Turn/Lane Change-Fail to Signal. Mr. Khalid's licence was suspended for seven (7) days at the time of the arrest. These matters are still before the courts with the next court date set for January 19, 2017.

EVIDENCE OF ABDULLAH KHALID

9. Mr. Khalid is turning 21 years old and lives with his mother. His mother and father are separated. When he was suspended from school, he started at Alternative North and enrolled in a co-op work placement at The Children's Place retail store in Bramalea City Centre for a school credit. He has been going there Monday to Friday, from 9 am to 6 pm and will be finished his cooperative assignment by January 18, 2017. The co-op has trained him in working in a retail environment. He now takes the bus to work every day.

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10. Mr. Khalid provided testimony regarding the following:

- Assault Causing Bodily Harm Charge March 30, 2016

He admitted to instigating the fight and acknowledged making the first advance by shoving the other student. He said that the student was insulting him, his mother and his ex-girlfriend. It made him mad. He denies having any anger issues. He admits his mistakes and wants nothing to do with the other student anymore. He doesn't go to the same school anymore. His next court date is March 8, 2017.

- December 4, 2015 Speeding Conviction: 149 km/h in 100 Zone

Mr. Khalid explained the reason for speeding on this occasion. His mother has a vascular disease. His sister called him to tell him their mother was not feeling well and may have to go to the hospital. He was rushing to get home. He admits travelling at 167 km/h. His driver's licence was suspended for 7 days.

- October 24, 2016 Charges: 125 km/h in a 60 Zone, Operating a Motor Vehicle While Performing a Stunt, Driver Motor Vehicle No Permit, Unsafe Turn/Lane Change

It was a Monday morning around 9:00 am and he was late for work at The Children's Place in Bramalea City Centre. He admits he was speeding. He failed to put his signal on when pulling over for the police officer. His driver's licence was suspended for 7 days. His next court date is January 19, 2017.

11. He wants to drive a taxi because his uncle has a taxicab that he can drive. His uncle is no longer able to drive a taxi cab. It was his uncle's idea for him to apply to MLS for a taxi licence in Toronto. He said he wants the flexibility of driving a taxicab so that if he needs to attend to his mother in the middle of the day, he can do so if she is unwell. He acknowledged that he would be driving a cab in the City of Toronto and that his mother lives in Brampton and so it may take some time to get to her if it was an emergency situation. He stated that he would call 911 if he couldn't attend to his mother in a timely manner and it was an emergency.

12. He admitted that he has made some mistakes. He realizes now how speeding can put himself and others in danger. If he does not get a taxi licence, he will likely go to school and get a diploma in the automotive field.

SUBMISSIONS

City's Submissions:

13. Mr. Gourlay submitted that a licence should be denied as Mr. Khalid is a young man and is just not ready for the duties and responsibilities that come with having

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a taxi licence. The City has two primary concerns: the first is the Assault Causing Bodily Harm charge under the Criminal Code where Mr. Khalid was the instigator of an altercation that turned violent. The second are the various speeding charges under the Highway Traffic Act (HTA). Mr. Gourlay submitted that one would expect that after Mr. Khalid's licence was suspended in December 2015 for the first speeding conviction that he would have been more careful.

14. However, less than a year later he was charged with speeding again. Both charges are well in excess of the speed limit and therefore cause grave concerns for the safety of the public. The City's position is that even if we accept Mr. Khalid's explanation for the first speeding conviction (i.e., that there was a medical emergency), we cannot accept the explanation for the second charge (i.e., that he was late for work). The second charge is particularly concerning in that it occurred on a city street in Brampton during Monday morning rush hour creating a potentially dangerous situation for other drivers and pedestrians.
15. Mr. Gourlay submitted that there are other means for Mr. Khalid to earn a livelihood. He will have shortly completed retail training and could find work in that field. With the passage of time, and with a clean driver's record, Mr. Khalid may be able to work as a taxicab driver in the future. However, not enough time has passed since his record of offences to provide the Tribunal with sufficient assurance with respect to the protection of the public.

Mr. Khalid's Submissions:

16. Mr. Khalid stated he finished a program called FreshStart after the incident at school and that he has received good retail training at The Children's Place. He wants to be able to drive his uncle's taxicab and be close to home when his mother needs him to attend to her medical needs. The flexibility of driving a cab is what he prefers over other means of earning an income.

DECISION

17. [S. 546-4.A(1) of the Toronto Municipal Code sets out the grounds for granting or renewing a licence:
 - A. An applicant for a licence or for the renewal of a licence, is, subject to the provisions of this chapter, entitled to the licence or renewal, except where:
 - (1) The conduct of the applicant affords reasonable grounds to believe that the applicant has not carried on, or will not carry on, the business in accordance with law and with integrity and honesty; or
 - (2) There are reasonable grounds for belief that the carrying on of the business by the applicant has resulted, or will result, in a breach of this chapter or any other law; or
 - (5) The conduct of the applicant or other circumstances afford reasonable grounds to believe that the carrying on of the business by the applicant has infringed, or would infringe, the rights of other members

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of the public, or has endangered, or would endanger, their health or safety.

18. The Tribunal considered all the evidence presented and determined that, at this time, Mr. Khalid is not a suitable candidate for a Vehicle-for-Hire licence. The Tribunal was of the view that Mr. Khalid did not demonstrate that he would operate within the Jaw while driving a taxicab, as evidenced by a recent pattern of speeding charges that occurred within a period of less than one year. It would not be in the interest of public safety therefore to grant him a Vehicle-for-Hire licence.
19. The Tribunal noted that there are still two (2) outstanding matters before the courts, one of which is a criminal matter. It was our view that, with the passage of time and a clear driving record and criminal history, Mr. Khalid may well be a suitable candidate to obtain a licence to drive a taxi in the future. However, the Tribunal agreed with the City's submission that not enough time has passed.
20. In reaching our decision, we also considered the Tribunal's mandate, as set out in in the Toronto Municipal Code, § 546-8.3(c), subsection (c) which requires that the Tribunal:

Have regard for the need to balance the protection of the public interest with the need for licensees to make a livelihood.
21. The Tribunal accepted the City's submissions that there are other job opportunities available to Mr. Khalid, especially in light of his recent co-op placement in a retail setting, as well as his stated plan to possibly pursue a diploma in automotive repair. The Tribunal was also not persuaded by the testimony given by Mr. Khalid that he required a taxicab licence in the City of Toronto to give him the flexibility to attend to his mother, who lives in Brampton, if she were to fall ill unexpectedly. This position of Mr. Khalid did not appear to make sense.
22. Accordingly, the Tribunal ordered that Mr. Khalid's Application No 8653380 for a Vehicle-For-Hire Driver licence be denied.

Originally Signed

Daphne Simon, Chair
Panel Members, Aly N. Alibhai and (Hedy) Anna Walsh concurring

[Reference: Minute No. 8/17]

Date Signed: January 26, 2017