

**REASONS FOR DECISION OF THE
ADMINISTRATIVE PENALTY TRIBUNAL**

Form 10

**Date of
Hearing:** **29/01/2018**

**Hearing
Officer:** **Cherie A. Daniel**

Re: **AU, WAI HUNG**
 NN152660

City's Representative: **No City Representative Present**

Owner's Representative: **AU, Bradley**

INTRODUCTION

This decision relates to the request for review from the decision of a Screening Officer pursuant to Chapter 610 of the Toronto Municipal Code. That decision was made by the Screening Officer on November 15, 2017. The Screening Officer rejected the explanation advanced by the Owner's Agent, but reduced the penalty associated with the violation from \$30.00 to \$15.00, for educational purposes during the transition to the new Administrative Penalty System.

The violation is predicated on Chapter 915-2 of the Municipal Code, which regulates, inter alia, parking on private property. In this case the offence consists of parking on private property without the consent of the owner of the private property. Specifically, the By-Law says:

“§ 915-2. Parking prohibitions.

(A) No person shall park or leave a motor vehicle on municipal property without the consent of the City or the local board of the City, as the case may be.

(B) No person shall park or leave a motor vehicle on private property without the consent of the property owner or occupant.

(C) Where the property owner or occupant has posted signs stating the conditions on which a motor vehicle may be parked or left on the property or prohibiting the parking or leaving of a motor vehicle on the property, any motor vehicle parked or left on the property contrary to those conditions or prohibitions shall be deemed to have been parked or left without the consent of the property owner or occupant (emphasis added).“

Mr. Bradley Au appeared as Agent for his father, who is the registered owner of the motor vehicle, and the recipient of the parking violation notice.

The Tribunal's jurisdiction is governed by Chapter 610 of the Toronto Municipal Code, specifically Article 610-2.3 thereof.

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SCREENING OFFICER'S DECISION

As noted above, the Screening Officer reduced the penalty from \$30.00 to \$15.00.

CITY REPRESENTATIVE'S EVIDENCE

None presented

RECIPIENT'S EVIDENCE

The following is a list of the materials filed by the Agent:

Tab 1: Licensing By-Law, Law Society of Upper Canada
Tab 2: Law Society Act
Tab 3: Chapter 610, Toronto Municipal Code
Tab 4: APT Rules of Procedure
Tab 5: Chapter 915, Toronto Municipal Code
Tab 6: MacKenzie v. Matthews 46 O.R. (3rd) 21
Tab 7: SPPA
Tab 8: Ontario Regulation 611/06 Administrative Penalties
Exhibit A: Authorization to Act as Agent
Exhibit B: Aerial View of University of Toronto Scarborough Campus
Exhibit C: Apparent Transcript of Marks, Bradley Au

Screening Decision Letter

The evidence that the agent provided was the same as that provided to the Screening Officer.

CITY REPRESENTATIVE'S SUBMISSIONS

N/A

RECIPIENT'S SUBMISSIONS

The sole focus of the agent's submissions was to attempt to convince the Hearing Officer that the act of parking on the private property in the vicinity of the "No Parking" signs was permitted by virtue of some species of easement arising from his status as a student enrolled at the University. In effect, the Agent argued that his enrollment provided an exemption from the "No Parking" condition imposed by the property owner, the University of Toronto, and that the University had in some fashion consented.

DECISION

Chapter 610-2.3 makes it clear that the Recipient, that is the owner of the vehicle, has the burden to persuade the Hearing Officer on the balance of probabilities that the

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offence did not occur, or that circumstances exist that constitute Undue Hardship sufficient to justify cancellation or variance of the penalty imposed by the Screening Officer.

In this case that burden consisted of showing that the “No Parking” prohibition imposed by the property owner did not apply to the Recipient. The proposition advanced by the Agent that enrollment at the University by the Recipient’s son operated as such an exemption to the “No Parking” condition is completely unconvincing. The evidence presented by the Recipient’s Agent was of very little assistance to the Tribunal, and did not genuinely bear on the relevant issue, What would have assisted the Tribunal is explicit documentation from the property owner that enrolment in the University by the driver of a vehicle operated as an exemption from the parking restrictions it has imposed. The evidence fell very far short of supporting that conclusion. In addition, there was no evidence respecting Undue Hardship.

Accordingly, the decision of the Screening Officer is affirmed without variation and the penalty imposed was \$15 and 30 days to pay.

Cherie Daniel

Hearing Officer

Date Signed: 20/04/2018