

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of Hearing: May 10, 2018 and July 26, 2018

Panel: Melina Laverty, Hearing Panel Chair; Keith Cooper and Daphne Simon, Members

Re: Angellos Malamas (Report No. 6954)
Applicant for a Vehicle-For-Hire Driver's Licence (Application No. B734700)

Counsel for Municipal Licensing and Standards: Mr. Matthew Cornett

Counsel for Applicant: Unrepresented

Greek Interpreter (May 10, 2018): Mr. Stefanos Kourkoulakos

Greek Interpreter (July 26, 2018): Ms Marsela Tolica

SUMMARY

The hearing began on May 10, and the Tribunal heard opening statements, as well as the evidence of MLS and Mr. Malamas. The hearing resumed on July 26, 2018, and on that day, the Tribunal heard the submissions of the parties.

On August 31, 2017, Mr. Malamas submitted an application for a Vehicle-For-Hire Driver's Licence.

A review of Municipal Licensing and Standards (MLS) records revealed that Mr. Malamas had a history of repeatedly contacting Ms Marcia Stoltz, Manager, Licensing Services in 2014, 2015, and 2016.

On September 19, 2017, MLS sent Mr. Malamas a letter outlining the grounds for denial of a licence. On November 8, 2017, MLS sent Mr. Malamas a revised letter with the grounds for denial of a licence.

After hearing the evidence and submissions of the parties, the Tribunal issued a Vehicle-For-Hire Licence, and imposed a probationary period and other conditions on the licence as detailed below.

INTRODUCTION

1. Mr. Malamas held a Vehicle-For-Hire (Taxicab) Driver Licence for 17 years, from July 14, 1994 to July 14, 2011.

May 10, 2018 and July 26, 2018

2. Mr. Malamas' licence was cancelled administratively in November 2011, due to unpaid fines. Mr. Malamas completed a lapsed licence examination to obtain his licence; however, he did not pass the test, and was unable to obtain his licence.
3. On November 7, 2016, Mr. Malamas applied for a Vehicle-For-Hire Driver's Licence. On July 13, 2017, the Tribunal considered the application and denied to issue a licence, having determined that Mr. Malamas' conduct during the hearing and his refusal to address the merits of the matter were such that Mr. Malamas had abandoned his application.
4. On August 31, 2017, Mr. Malamas submitted an application for a Vehicle-For-Hire Driver's Licence.
5. On September 19, 2017, MLS sent Mr. Malamas a letter outlining the grounds for denial of a licence. On November 8, 2017, MLS sent Mr. Malamas a revised letter with the grounds for denial of a licence.
6. On March 15, 2018, the Tribunal adjourned this matter so that a full transcript and audio recording of the July 13, 2017 hearing could be made available as evidence for this hearing, as requested by Mr. Malamas.

ISSUE

7. The issue before the Tribunal was whether Mr. Malamas' conduct (as evidenced by his conduct toward MLS staff, and any charges and/or convictions under the City of Toronto bylaw) provides reasonable grounds to believe that Mr. Malamas will not operate a Vehicle-For-Hire in accordance with law, and with honesty and integrity; his operation of a Vehicle-For-Hire has resulted or will result in a breach of the law; or his operation of a Vehicle-For-Hire would infringe on or endanger public health and safety.
8. Mr. Cornett stated that MLS's position is that the Tribunal should deny to issue Mr. Malamas a licence, as there are reasonable grounds to believe that Mr. Malamas will not obey the law, and will not abide by or obey bylaw officers or any Tribunal orders. There are also public safety concerns as Mr. Malamas has problems with anger management and a history of harassing MLS staff members.
9. Mr. Malamas told the Tribunal that he held a Toronto taxi licence and drove a taxi for almost 20 years. During that time, he never had any complaints from passengers or fellow drivers. He is a family man with four daughters and six grandchildren. He respects the City but also asks that they respect him. He will explain why his licence was unfairly taken away, when he did not meet certain requirements.

CITY'S EVIDENCE

Mr. Cornett called Ms Olga Kuztelska, MLS Supervisor, as a witness. Ms Kuztelska was affirmed and testified as follows:

May 10, 2018 and July 26, 2018

10. She is familiar with and signed MLS Report No. 6954 (dated December 27, 2017, pages 1 to 99). Report No. 6954 was entered as Exhibit 1 without objection, and hereafter is referred to as “the report.”
11. The transcript from the July 13, 2017 TLT hearing regarding Mr. Malamas was entered as Exhibit 2, and the audio recording for that hearing was entered as Exhibit 3. [At the time, the Tribunal noted that it would consider what weight it would provide to any evidence contained therein, recognizing that any witness would not be subject to cross-examination by Mr. Malamas or the Tribunal members.]
12. She reviewed Mr. Malamas’ licensing history with MLS, including that he held a licence from July 14, 1994, which expired on July 14, 2011, and that subsequently his licence was cancelled.
13. The Tribunal decision from July 13, 2017, indicates that the TLT denied to issue a licence to Mr. Malamas and determined that he had abandoned the hearing. [p. 7 of the report.]
14. Mr. Malamas’ three-year driving abstract shows no actions registered against his driver’s licence. [p. 13 of the report.]
15. There are notes transcribed by Ms Stoltz (MLS Supervisor) which describe a series of voicemail messages from Mr. Malamas between November 24, 2014 and August 16, 2016, which Ms Stoltz considered threatening and harassing.
16. The MLS chart on pages 37 and 38 of the report shows 15 bylaw charges or convictions, and outstanding fines for 12 of them.
17. Pages 39 to 96 of the report are the ICON (Integrated Courts Offences Network) data used to create the MLS chart.

Mr. Malamas was offered the opportunity to cross-examine Ms Kuztelska, and she testified as follows:

18. She agreed that the handwritten notes of Ms Stoltz on p. 14 and 15 of the report are difficult to read.
19. She explained that the typed transcription of those notes (p. 26-27 of the report) was available at the July 2017 hearing, but clarified it was in an update from April 4, 2017, rather than in the main report for that hearing. [Mr. Malamas contended that he was confused at the July 2017 hearing as he did not have the typed version of those pages.]
20. She briefly explained that a licence may be cancelled for various reasons, and if certain requirements are not met, such as, if the renewal payment is not received. She believed Mr. Malamas’ previous licence was cancelled for outstanding fines.

Panel members questioned Ms Kuztelska and she testified as follows:

May 10, 2018 and July 26, 2018

21. She has not added up the total amount of fines owed by Mr. Malamas. [See p. 37 and 38 of the report.]

Mr. Cornett did not call any other witnesses.

APPLICANT'S EVIDENCE

Mr. Malamas was affirmed and testified as follows:

With MLS's agreement, Mr. Malamas testified on his own behalf primarily in English, and provided the bulk of his testimony of his own accord, and with limited reliance on the interpreter for translation of the occasional word or sentence.

Mr. Malamas was asked if he had any documents to submit to the Tribunal. Mr. Malamas submitted 74 pages, received by the Tribunal on March 9, 2018, and it was entered in as Exhibit 4 without objection.

Mr. Malamas wanted to know why the Tribunal did not issue the summons for the three City councillors as he requested. The Tribunal considered Mr. Malamas' submissions as to what evidence he anticipated they would provide. Mr. Malamas submitted he wished to question them about the law related to taxi licences. The Tribunal concluded that the City councillors' interpretation of any laws was not appropriate or relevant, and the Tribunal panel was tasked with interpreting any laws relevant to making a decision in the matter before it.

Mr. Malamas proceeded to provide his evidence while relying on Exhibit #4.

22. He explained that after the July 13, 2017 hearing, he realized that his "mind became stuck" and he wished to return to continue the hearing, and on July 20, he made a written request to the Tribunal asking if he might continue the hearing.
23. He indicated that he has been denied a hearing for seven years, and that there has been seven years of "bullying" by MLS.
24. He is concerned that the first written communication he received from MLS to explain why his licence was cancelled in 2011 was dated March 28, 2012. He wonders why a letter was not sent to him earlier by registered mail. He called to ask Ms Stoltz about this and she told him if he did not like it "he could take her to court."
25. He decided to buy a new car so he could work for Uber. But then the laws changed and Uber told him he needed to get a Vehicle-For-Hire Driver's Licence. He met with an MLS Director, who reviewed his file. The Director provided him with some assistance for an appeal, and was very helpful.
26. He later on was accused of "abusing" Ms Stoltz. He was upset as he tried to explain the three tickets listed on the March 28, 2012 letter and leading to his licence being cancelled were under appeal, and because of the appeal he did not yet have to pay the fines. When he explained the issue to the Director, he

May 10, 2018 and July 26, 2018

was then told that those three tickets would be excluded, but other tickets were added instead, and led to the licence being cancelled anyway.

27. When he lost his licence, he almost lost everything. His marriage started to fall apart. At times he was out living “on the street” and “eating from the garbage.”
28. He noted that he has never had a complaint either from a passenger or a fellow driver in all his years of driving a taxi. He pointed to the letters of support from Maple Leaf Taxi and Beck Taxi (p. 15 and 16 of Exhibit 4).
29. His licence expired on July 11, 2011, and then was cancelled on November 25, 2011. He spoke with two MLS supervisors (Mr. Van Elswyk and Mr. Mucha), who told him he could not get his old licence back now that it had been cancelled.
30. On October 19, 2012, he tried to get help from others, including city councillors and the mayor.
31. He told the Panel that when he attended the “refresher course” it ended up being a two-hour examination, which he was unprepared for, and thus failed. After so many years driving a taxi, he felt mistreated and undignified. He had to wait many months to write the examination and there were only four other people doing so.
32. He claimed many taxi drivers are concerned about bullying by MLS and City bylaw officers, and that the services taxi drivers provide to the City are unappreciated. He received tickets at Woodbine and Main subway stations, when he was trying to help people with mobility issues from the subway to the taxi, and returned to find an officer writing him a ticket. He feels that this was unreasonable under the circumstances.
33. At the July 13, 2017, Tribunal hearing, he found it difficult to follow along with the report, as he could not read Ms Stoltz’s handwriting, and did not realize a transcription had been provided. During the hearing, his mind “became stuck” and he felt a pressure in his head. He could not understand the questions.
34. He feels the whole process has been difficult and amounts to “cruel and unusual punishment.”
35. He attended the court on April 15, 2009, after he was convicted in March 2009 so he would not have to pay the fines while he waited for his appeal to be heard. An MLS manager suggested he appeal these convictions. He does not understand why he was told he had to pay the fines to keep his licence, when the judge had told him he did not need to do so until the appeal was heard.
36. He never threatened Ms Stoltz when he left her messages. If he had threatened her then Ms Stoltz could have reported this to the police. He does not understand why she was afraid to leave her office. He never knew where her office was located. He never went to her office and did not know where it was at the time. He had assumed she was based at the East York Civic Centre MLS office. He has been to City Hall many times for various demonstrations. There are police

May 10, 2018 and July 26, 2018

and security guards at the City Hall and he does not understand why Ms Stoltz would be afraid of him when she left to go home. In his view, she was well protected there.

37. He did summons Ms Stoltz and Ms Tracey Cook to testify, and he delivered the summons to the Mayor's office and to the receptionist.
38. He recalls Ms Stoltz mentioned Mr. Wayne Mattless, MLS Director, and also that she was doing three jobs.
39. He currently receives a small pension and it has been difficult to pay fines from this pension. When he turned 65 years of age, he was able to buy a new car and made monthly payments on it. He also got insurance. The car cost about \$25,000. His hope was to use the car and work for Uber.
40. He noted the fines on p. 37-38 of the report, and told the Panel that he intends to pay the fines from those tickets. He noted some of the tickets were issues with him but others were due to the state of repair of the car he was driving at the time.
41. At the July 13, 2017 Tribunal hearing, his mind was working to understand how to ask the questions of the witness correctly. He became confused. He felt as if his eyes would "pop out of his head" and his face turned very red. He even felt he might have a heart attack. He felt an immense pressure and stress.

Mr. Cornett cross-examined Mr. Malamas and he testified as follows:

42. He believes Mr. Mattless is a retired police officer. Mr. Mattless called him four or five times. Sometimes Mr. Mattless would ask for his assistance about issues, and to discuss them with Mr. Cesar Palacio, City Councillor. Mr. Mattless told him not to call Ms Stoltz back, and not to trust her. He does not recall exactly when Mr. Mattless told him this.
43. He currently has a small pension. His children have been helping out. He has credit card debts to pay. He had to pay around \$1,200 to MLS to take various examinations to try and get his taxi licence back.
44. When his licence was taken away, it nearly destroyed his entire life. When a person's job is taken away, it is devastating. He has only ever been a taxi driver. He had driven a taxi for 20 to 25 years, and his identity was connected to being a taxi driver. He loved his work and enjoyed taking passengers places. It was his life and his hobby. He never had a complaint.
45. His wife is a labourer in a factory and helps him. She says she "feeds" him. But he feels no dignity in having to be supported by his wife.
46. He has lived in the same house many years and has no mortgage.

Panel members questioned Mr. Malamas and he testified as follows:

May 10, 2018 and July 26, 2018

47. He did not pay the older fines (for example from October 21, 2001, see p. 37-38) as he never knew he owed these fines. He was able to renew his licence with MLS in 2004, 2006, 2007 etc. and was never told he had fines outstanding. Had they told him, he would have paid the fines. For some of the fines, his boss would have paid them (e.g. when he was fined due to the state of repair of the taxi).
48. By 2012, he was not able to pay the fines, as he lost his licence and had no means to pay the fines then.

Mr. Malamas did not call any other witnesses.

CITY'S SUBMISSIONS

In his closing submissions, Mr. Cornett, on behalf of MLS, submitted that:

49. The Tribunal should deny the licence. There are reasonable grounds to believe that Mr. Malamas will not operate a taxi in accordance with the law, and that Mr. Malamas may present a danger to public safety.
50. Mr. Malamas held a taxi licence from 1994 to 2011, and in 2011 his licence was revoked administratively.
51. Mr. Malamas has a history of repeated and harassing calls to MLS staff (Ms Stoltz) as detailed at the July 2017 hearing. [Mr. Cornett directed the Tribunal to the hearing transcript, p. 19 line 13 to page 20 line 20, and read portions of it into the record.]
52. From June 29 to July 13, 2015, Mr. Malamas phoned Ms Stoltz nine times, and left angry and harassing messages in which he questioned her ability to do her job and her motivation. In total Mr. Malamas called her 14 times between November 24, 2014 and August 16, 2016. Mr. Malamas accused Ms Stoltz of engaging in "criminal practices" and of being "corrupt" and that is why she denied him a licence. Ms Stoltz testified that she felt her personal safety was threatened by Mr. Malamas. She asked her Director (Mr. Mattless) to intervene and assist, and her Director advised her not to return the calls.
53. Mr. Mattless advised Mr. Malamas not to call Ms Stoltz. Mr. Malamas testified that he spoke with Mr. Mattless and was told not to call Ms Stoltz, yet Mr. Malamas continued to call her.
54. As a taxi driver Mr. Malamas will have to interact with MLS staff and the public, and MLS has concerns about Mr. Malamas' ability to manage his anger. At the July 2017 Tribunal hearing, Mr. Malamas' behaviour was concerning. Mr. Malamas asked inappropriate questions of the witness (Ms Stoltz) and was verbally combative. A security officer was called after Mr. Malamas did not leave when asked.
55. In MLS's view, Mr. Malamas has displayed a clear pattern of concerning conduct and behavioural issues. At the May 2018 hearing, when Mr. Malamas was

May 10, 2018 and July 26, 2018

challenged, his reaction was also inappropriate. Mr. Malamas has shown himself to be unstable and to have anger management issues.

56. Mr. Malamas has failed to take responsibility for the bylaw convictions against him, and seems to suggest that he was charged and convicted because of a larger conspiracy against taxi drivers. Mr. Malamas has many outstanding fines. The fact these fines are unpaid shows Mr. Malamas is unable to follow the law or take responsibility, rather he blames others.
57. Mr. Malamas seems to be fixated on particular City staff and believes they are bullying him, when they are only trying to do their job. Mr. Malamas suggests there were “secret” meetings between City counsel and the Tribunal, and also suggested that the audio recording of the July 2017 Tribunal hearing had been modified.
58. Mr. Malamas admitted that he currently receives a small pension, and some support from his children. He indicated he has been married 50 years, and that his wife continues to work as a factory labourer and helps support him. He told the Tribunal he owns his house without a mortgage. MLS believes that its concerns about Mr. Malamas’ conduct outweighs any livelihood needs.

APPLICANT'S SUBMISSIONS

Mr. Malamas submitted that:

59. He has never caused a problem for anyone before having his licence taken away. What happened was because of the “bullying” by MLS and the City.
60. He is concerned when his case was last heard by the Tribunal in July 2017 there was only one member, and the MLS lawyer (Mr. David Gourlay) that day pushed for a decision to be issued. He said that the lawyer should have known his case was complex and his hearing should not have proceeded with one member. Also, the originally scheduled Hearing Panel Chair was not there, and Mr. Gourlay and the Hearing Panel Chair that day did have a “secret” meeting without him. In the transcript of that hearing, he apologized for his behaviour, but now he would like to take back that apology because Mr. Gourlay lied.
61. He drove a taxi for many years without ever receiving a complaint. No passenger, no driver, no brokerage firm or any member of the public has ever complained about his behaviour.
62. Many taxi permits are owned by “prosecutors, lawyers and judges” and they employ the drivers.
63. He has never threatened anyone including the woman who was a prosecutor (Mr. Malamas could not recall her name, but it was confirmed he was referring to Ms Stoltz). Ms Stoltz was lying when she suggested that he threatened her. MLS never provided the original voice messages showing he threatened her.

May 10, 2018 and July 26, 2018

He did make phone calls to her as she was the one who sent him the notes with conditions about his licence, and he was asking her to explain why he was “fired” and also asking her to send him a “cheque” as he was owed money. He questions if it was wrong to contact her for those reasons. He was asking Ms Stoltz for help; not threatening her. Why would he threaten her when he knows that there are police at the City offices; it does not make sense.

64. Until the issues with Ms Stoltz, he never had a problem with any other MLS managers or staff. This was the first time.
65. At the previous hearing in July 2017, he walked out on his own. Though the report (TLT decision) suggests security had to remove him, the security guard never laid a hand on him. In his view, the decision is inaccurate as to what happened that day as he left of his own accord.
66. He needs a licence. Losing his taxi licence has destroyed him financially. He has tens of thousands of dollars in debts. He has bills to pay and though his daughters have helped, they cannot help anymore. He has had to help one of his daughters with legal fees she owed. He has tickets to pay. He has never said he will not pay the fines on the tickets. MLS has destroyed him financially and has destroyed his integrity.
67. He has served the City as a taxi driver over many years. He feels MLS unfairly removed his licence to which he was entitled. He appealed his conviction on bylaw charges and then MLS cancelled his licence, and that was unfair, as he did not have to pay fines while the convictions were under appeal. MLS did not follow the rules, and just told him “take us to court.” It has taken seven years for him to get to this hearing to be able to get his licence back.
68. He was ready to drive for Uber and had purchased a new car to do so, but then the rules were changed and he was required to get a licence from the City.

CITY'S REPLY

69. The City still has concerns about Mr. Malamas' governability, and his views that people in positions of power (including MLS, Tribunal members, lawyers, judges etc.) are in a conspiracy against him and taxi drivers. The City is concerned about Mr. Malamas' ability to conduct himself in accordance with the law, and to be professional with MLS staff.

ANALYSIS

70. In considering whether to renew, grant or deny a licence, and whether to do so with or without conditions, the Tribunal must balance the protection of the public interest with the need of the licensee to earn a living.
71. Section 546-4 A of the Toronto Municipal Code sets out the grounds for denying renewal of a licence, which include the following:

May 10, 2018 and July 26, 2018

- a. The conduct of the applicant affords reasonable grounds for belief that the applicant has not carried on, or will not carry on, his or her trade, business or occupation in accordance with law and with integrity and honesty; or
 - b. There are reasonable grounds for belief that the carrying on of the trade, business or occupation by the applicant has resulted, or will result, in a breach of this chapter or any other law; or
 - c. The conduct of the applicant or other circumstances afford reasonable grounds for belief that the carrying on of the business by the applicant has infringed, or would infringe, the rights of other members of the public, or has endangered, or would endanger, the health or safety of other members of the public.
72. Having weighed the evidence, the Tribunal is satisfied that there are not reasonable grounds to believe that Mr. Malamas will not operate his business in accordance with the law or with honesty and integrity; that his operation of his business has resulted or will result in a breach of the law; or that Mr. Malamas would infringe the rights of, or endanger the public.
73. The Tribunal notes that Mr. Malamas raised numerous issues and concerns about the taxi industry or drivers being unfairly targeted, some of which were conspiratorial in nature, and all of which were not directly relevant to the issue before the Tribunal, except to the extent this raised concerns about Mr. Malamas' ability to abide by the law, and in particular to submit to enforcement by City bylaw officers.
74. Though Mr. Malamas has been charged and convicted of bylaw offences, given he drove a taxi for 17 years, the number of offences is relatively low (15 charges on a total of nine dates). The Tribunal also took note of the fact that Mr. Malamas has no criminal charges or convictions, and a clean driving record, with no charges or convictions under the Highway Traffic Act or Compulsory Automobile Insurance Act. In our view, there was no clear pattern of past conduct to show Mr. Malamas would not abide by the law.
75. With regard to the outstanding bylaw fines, during the hearing Mr. Malamas expressed a willingness to pay them. The Tribunal noted that Mr. Malamas paid his fines for two convictions in February 2010 and one conviction in June 2005. Mr. Malamas testified that he had renewed his licence annually without issue until 2011, and never been notified of other outstanding fines (presumably the 2002 and 2006 convictions noted on p. 37 and 38 of the report), and the Tribunal heard no evidence from MLS to indicate otherwise.
76. With respect to the three March 2009 bylaw convictions, the record supports that Mr. Malamas appealed those convictions, and the requirement to pay those fines in 30 days was held in abeyance pending the appeal. The record shows Mr. Malamas lost those appeals and was convicted in May 2017, and those fines are now due.

May 10, 2018 and July 26, 2018

77. Mr. Malamas further testified by the time he was aware of all the fines he owed, he had already lost his licence, and was unable to pay, as he had no job. He only started to receive a pension when he turned 65, about two years ago.
78. According to the report, Mr. Malamas' fines total \$1,820. Mr. Malamas did not provide evidence to the Tribunal that he had made any effort to pay any of the fines owing prior to the hearing, which was of some concern to the Tribunal. However, Mr. Malamas has paid past fines, and we accept that he was unaware of some of the fines until after losing his licence. In the Tribunal's view, given we had some concerns about his governability, Mr. Malamas must pay the outstanding bylaw fines as a condition of receiving a licence. The Tribunal will give Mr. Malamas four months to make these payments, failing which the licence will be revoked.
79. The Tribunal was also concerned by Mr. Malamas' many phone calls to Ms Stoltz from November 2014 to August 2016, with the majority of calls taking place during two weeks from June 29 to July 13, 2015. There is no question that the repeated nature of the calls and some of their content was inappropriate.
80. The Tribunal did not hear any audio recording of the messages, but did have a transcription of Ms Stoltz's handwritten notes. Some of those notes do not document what Mr. Malamas said but rather Ms Stoltz's perception of the call. In those notes where the words of the message were documented, his messages are somewhat confused, and accuse Ms Stoltz of being responsible for him losing his licence, and question her qualifications. Although Ms Stoltz clearly felt threatened by the messages, there are no clear direct threats to Ms. Stoltz. There is no indication that the police were involved in an effort to stop the calls, or otherwise, as Mr. Malamas testified.
81. Though Mr. Malamas testified that Mr. Mattless asked him to stop calling Ms Stoltz, he did not recall when this happened. There is some suggestion based on the typewritten notes of Ms Stoltz that Mr. Mattless spoke with Mr. Malamas in March 2015; however, this information is not in her contemporaneous handwritten notes (p. 14 of the report). MLS did not call Mr. Mattless as a witness, nor is there other evidence such as a dated letter to Mr. Malamas asking him not to call Ms Stoltz. In any event, the record shows that the frequency of the calls did stop, as after July 2015, Mr. Malamas only left three additional messages for Ms Stoltz in October and December 2015, and again in August 2016.
82. Though Mr. Malamas' repeated calls to Ms Stoltz were concerning and raised a question as to whether Mr. Malamas would accept oversight by MLS and operate his taxi in accordance with City bylaws, we also noted that Mr. Malamas described other staff as helpful. Mr. Malamas testified he had had no issues with any MLS staff in the 17 years as a driver until his licence was administratively cancelled. Mr. Malamas also told the Tribunal he had no problems with the MLS witness (Ms Kusztelska) present at the hearing, or with Mr. Mattless. To some extent, Mr. Malamas seems to have focussed his anger about losing his licence on Ms Stoltz whose signature appears on the letter administratively cancelling his licence. Given Mr. Malamas appeared to have no issues with many other

May 10, 2018 and July 26, 2018

MLS staff, the Tribunal was satisfied that a probationary period and condition on his licence were sufficient to address any concerns about his behaviour toward MLS staff.

83. Though we were concerned about Mr. Malamas' repeated phone calls to MLS staff and his conduct at the July 2017 hearing, we did not agree with MLS's position that Mr. Malamas' angry behaviour posed a threat to public safety.
84. Mr. Malamas testified that he had never had any complaints from passengers, drivers, or brokers. MLS did not provide evidence of such complaints. Mr. Malamas apparently worked for two large taxi companies, Beck and Maple Leaf Taxi, which usually track such information. Had there been any complaints we would have expected MLS to rely on them to support its position that Mr. Malamas' anger issues and conduct posed a risk to the public. The Tribunal also noted that the Mr. Iordanidis, General Manager at Maple Leaf Taxi, provided a letter of support for Mr. Malamas, saying that from 2008 to 2012, Mr. Malamas was a driver and that he "is trustworthy, ethical and was a great asset to our cab company." Mr. Souter, Driver Supervisor at Beck Taxi, indicated that Mr. Malamas attended Beck taxi sensitivity training in 1995.
85. Mr. Malamas also told the Tribunal that at the July 2017 hearing his mind "became stuck" and that he could not follow along with the report, and did not understand why his questions to the witness were inappropriate. He agreed that he felt as if he might explode or even have a heart attack. He told the Tribunal having waited seven years to tell his story that it was challenging and he became upset, but that the security guard did not need to bring him out of the hearing room. He apologized that day and after the fact in a letter to the Tribunal, but in his submissions he took back his apology. Though the Tribunal had some concerns about Mr. Malamas' conduct in July 2017, and at times during this hearing, particularly his belief that others had conspired against him, the Tribunal recognized how much the administrative cancellation of his licence has impacted Mr. Malamas' life, and that it was difficult to control his emotions when finally telling his story after seven years.
86. In considering whether to renew, grant or deny a licence, and whether to do so with or without conditions, the Tribunal must balance the protection of the public interest with the need of the licensee to earn a living, as set out in section 545-3 B (3)(c) of the Toronto Municipal Code.
87. For over 17 years, Mr. Malamas supported himself as a taxi driver. He told the Tribunal that he has only ever worked as a taxi driver. He loved his work and enjoyed taking passengers places. Mr. Malamas testified that he has not worked for many years, but now earns a small pension since turning 65 years old. He has many debts to pay, and is ready to drive for Uber having purchased a car that would meet their requirements.
88. The Tribunal recognized that at this stage in life, it would be difficult for Mr. Malamas to retrain or find another way to earn an income. In the Tribunal's view, Mr. Malamas' need to earn a livelihood and lack of other options further tipped the balance in favour of issuing a licence.

May 10, 2018 and July 26, 2018

89. Though the Tribunal did have some concerns about Mr. Malamas' ability to conduct himself in accordance with the law, and submit to enforcement by City bylaw offices, and oversight by MLS in that he did not take any steps to pay bylaw fines incurred over many years and because of his conduct toward some MLS staff and during Tribunal hearings, the Tribunal was satisfied that its concerns could be addressed by conditions on Mr. Malamas' licence, as detailed below.

DECISION

For the reasons set out above:

Mr. Malamas' application is granted and a Vehicle-For-Hire Driver's Licence will issue, subject to the following conditions:

- (1) Mr. Malamas must pay all outstanding by-law fines and provide proof of payment to MLS.
- (2) If proof of payment of the by-law fines is not provided to MLS by November 26, 2018, the licence will be revoked.
- (3) All fees, documents and/or any outstanding requirements must also be submitted to the satisfaction of MLS.
- (4) Immediately upon being issued, the licence will be placed on probation for a period of three (3) years to commence on the date of issuance;
- (5) During the probationary period, if MLS has concerns with any new charges or convictions, or with the conduct of Mr. Malamas toward MLS staff, those matters and Report No. 6954, and any updating material, may be brought back before the Tribunal for a full hearing.

Originally Signed

Melina Laverty, Chair
Panel Members: Keith Cooper and Daphne Simon concurring

Reference: Minute No. 86/18 and 131/18

Date Signed: August 9, 2018