

## **REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL**

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**Date of**

**Hearing:** July 19, 2018

**Panel:** Moira Calderwood, Hearing Panel Chair; Melina Lavery and Daphne Simon, Members

**Re:** Baldev Singh Sidhu (Report No. 7033)  
Applicant for a Vehicle-for-Hire Driver's Licence (Application No. B821743)

**Counsel for Municipal Licensing and Standards (MLS):** Mr. Graham Thomson

**Counsel for Applicant:** Unrepresented

**Punjabi Interpreter:** Mr. Yash Kapur

### **INTRODUCTION**

In April 2018, Mr. Sidhu applied for a Vehicle-for-Hire Driver's Licence. MLS denied the application because Mr. Sidhu had a 2017 conviction that triggered denial under the screening criteria set out in the Toronto Municipal Code. Mr. Sidhu requested a hearing before the Toronto Licensing Tribunal, seeking to have the application granted.

Mr. Sidhu has a stayed criminal charge from 2002 of operating a motor vehicle while his blood alcohol level was over 80 mg, and a conviction from 2017 under the Highway Traffic Act of careless driving. MLS opposed the Tribunal's granting the application.

The Tribunal considered the evidence and submissions presented during the hearing. It granted Mr. Sidhu's application for a Vehicle-for-Hire Driver's Licence, and placed the licence on probation, with conditions. The Tribunal delivered an oral decision at the hearing. These are the written reasons for that decision.

The Tribunal had to determine whether Mr. Sidhu's prior conduct provided reasonable grounds to believe that he had not carried, or would not carry on his business with honesty and integrity and in accordance with the law, that carrying on his business may result in a breach of the law, or that carrying on his business has infringed or would infringe the rights of the public, or endanger their health or safety.

### **CITY'S EVIDENCE**

The facts underlying this matter were not in dispute. The documentary evidence, consisting of Report No. 7033, was entered through MLS's sole witness, Ms Andrea DiMatteo, Acting Supervisor, MLS. Mr. Sidhu took no issue with any of the facts set out here:

- From 1995 to 2012, Mr. Sidhu was licensed as a Toronto taxi driver.

July 19, 2018

- In July 2002, Mr. Sidhu was charged with driving with excess blood alcohol, after an incident where he was allegedly pulled over by the police for speeding, and the police officer formed a suspicion that he was driving after consuming alcohol. A breath sample indicated that his blood alcohol level was over the limit, and the police laid the charge.
- In November 2003, this charge was stayed, due to the operation of section 11(b) of the Canadian Charter of Rights and Freedoms (i.e. because of an unreasonable delay in bringing the case to trial).
- In 2012, Mr. Sidhu obtained a Taxicab Owner's Licence.
- In July 2016, Mr. Sidhu was charged under the Highway Traffic Act with careless driving, and under the Criminal Code with three further charges (one count of impaired operation by alcohol or drug, and two counts of operation over 80 mg). These charges arose from an incident where police observed Mr. Sidhu driving his taxi (a Lincoln sports utility vehicle) at a high rate of speed on Highway 409. He did not have a passenger and his roof light was not on. The police officer stopped the vehicle, and formed the impression that Mr. Sidhu had been drinking. Mr. Sidhu registered a "fail" on a screening device which measures alcohol on the breath.
- In August 2016, Mr. Sidhu's Taxicab Owner's Licence expired.
- In November 2017, Mr. Sidhu pleaded guilty to the careless driving charge, and the Criminal Code charges were withdrawn, dismissed and stayed, respectively. Mr. Sidhu's provincial driver's licence was suspended for three (3) months, and he was fined \$1 205.
- In April 2018, as noted, Mr. Sidhu applied for a Vehicle-for-Hire Driver's Licence.

## **APPLICANT'S EVIDENCE**

In testimony, on cross-examination and in response to questions from panel members, Mr. Sidhu stated:

- He needs to work to support himself and his family. He lives with his wife (who was present at the Tribunal hearing), his mother who is ill, and his son and daughter. The latter two are both in their 20s and attending post-secondary institutions.
- His children work in the summer vacation period between school terms. His wife does not work.
- He works in a factory, sometimes part-time and sometimes full-time.
- His siblings help support him and his family financially.
- He did not dispute that the 2016 incident involved drinking and driving. Two months after the 2016 charges, he attended a five-night live-in programme, where people who used to drink came to talk to them. These were classes in how to stop drinking.

July 19, 2018

- His drinking and driving was a “blunder” but he will not repeat it. He knows that if he repeats it, he will end up “behind bars.”
- He is uneducated, with limited English skills or options for other employment.
- He will not drink and drive again as to do so would jeopardize his licence, which he needs to support his family.

## **SUBMISSIONS**

Mr. Thomson for MLS submitted that the Tribunal should not grant Mr. Sidhu’s application for a licence. Mr. Sidhu’s conduct in 2016 is part of a pattern dating back to 2002. After the 2002 incident, Mr. Sidhu must have known the stakes involved in drinking and driving again, yet he repeated the behaviour in 2016. Both incidents were in taxis.

The recent conviction for careless driving is very concerning to MLS and such a conviction is serious enough to trigger a mandatory refusal of a licence, under the screening criteria in the bylaw. Mr. Sidhu took five classes after the 2016 incident but is not currently engaged in alcohol counselling and has no current supports to help him stay away from drinking alcohol.

In Mr. Thomson’s submission, the Tribunal has reasonable grounds to believe that, if granted a licence, Mr. Sidhu will not carry on his business in accordance with the law, that carrying on his business may result in a breach of the law, and carrying on his business may infringe the rights of the public, or endanger the public’s health or safety.

With respect to the Tribunal’s mandate to balance the protection of the public interest with the need for licensees to make a livelihood, Mr. Thomson noted that Mr. Sidhu has provided evidence that he can make a livelihood by working in the factory. This is to be balanced with the significant threat to the public interest in granting a licence to an applicant with a recent conviction for careless driving.

Mr. Sidhu asked the Tribunal to grant the licence. He needs to earn a livelihood.

## **DECISION**

We were satisfied that Mr. Sidhu established his need to make a livelihood, given that he is contributing to the support of two children in post-secondary education, he supports his mother and wife, and the only other work he has accessed is in a factory, sometimes part-time and sometimes full-time. Mr. Sidhu’s unchallenged evidence was that he relies on his siblings to help support his family financially. That in itself leads us to conclude that he is not currently able to make a sufficient livelihood.

The Tribunal found this case very challenging to decide. We agree with MLS that a recent careless driving conviction, particularly given the underlying circumstances that involved alcohol, is extremely concerning and raises serious questions about public safety.

That said, we noted the following mitigating factors:

July 19, 2018

- Almost exactly two (2) years have passed since the July 2016 incident that led to the careless driving conviction, and Mr. Sidhu has not incurred any further charges under any statute or the by-law, since. (We acknowledge that for three (3) months of that time Mr. Sidhu was restricted from driving, as his provincial driver's licence was suspended.)
- Both of the concerning incidents took place in a taxi, but there is no evidence in either case that Mr. Sidhu was operating as a taxicab, as he did not have any passengers and his roof light was not lit.
- Mr. Sidhu did complete a live-in alcohol counselling program after the 2016 incident.
- Mr. Sidhu drove a cab in Toronto for over 20 years (from 1995 to 2016) and MLS raised no suggestion of, and provided no evidence of, any customer complaints, by-law infractions, criminal activity or other undesirable actions by Mr. Sidhu in the conduct of his business (apart from the July 2002 and July 2016 incidents at issue). This is not a case where the applicant has a history of other criminal, provincial by-law, insurance, drug-related or other charges or convictions. Further, there was nothing to suggest that he had driven while his provincial driving licence was suspended, or had driven a taxi while not licenced to do so.

There does not appear to be a clear pattern of concerning conduct. Rather, there are two serious incidents, more than ten years apart, in an otherwise unblemished record. If Mr. Sidhu actually had a pattern of drinking and driving, we would have expected to see more charges and/or convictions related to that offence, on his records. Given the gap of ten plus years between transgressions, the Tribunal formed the view that there were not reasonable grounds to believe that Mr. Sidhu would make such an error in the future.

We had no concerns about Mr. Sidhu's honesty and integrity and although he appeared to be somewhat bewildered by the Tribunal process, he acknowledged his two major transgressions and did not attempt to minimize their importance. He took no issue with the Tribunal considering the conduct leading to his 2002 charges, even though those charges were stayed. The Tribunal observed Mr. Sidhu to be very sincere in his belief that to engage in drinking and driving again would be so disastrous to his family and financial life, that he has no intention of doing so. Further, we reasoned that imposing a condition requiring specific reporting of any alcohol-related charges and any alcohol-related driver's licence suspension would provide further deterrent to ensure Mr. Sidhu does not engage in similar conduct. The conditions are designed to provide further protection of the public interest by deterring such conduct and by providing that, should such conduct be repeated, MLS will be able to bring the matter back to the Tribunal along with this report to consider taking action, as needed, to protect the public.

The Tribunal granted Mr. Sidhu's application is and a Vehicle-For-Hire Driver's Licence will be issued, subject to the following conditions:

- (1) All fees, documents and/or any outstanding requirements must be submitted to the satisfaction of Municipal Licensing and Standards within 30 days of the Tribunal hearing, failing which the licence may be cancelled;

July 19, 2018

- (2) Immediately upon being issued, Vehicle-For-Hire Driver's Licence will be placed on probation for a period of three (3) years;
- (3) Prior to the next three renewals of the licence, Mr. Sidhu must provide to Municipal Licensing and Standards, at his own expense, an original up-to-date abstract of his driving record;
- (4) During the probationary period, if Mr. Sidhu is charged with any alcohol-related driving offence or if his provincial driver's licence is suspended for any alcohol-related occurrence, he must notify Municipal Licensing and Standards within three (3) business days from the date of the charge or occurrence. Mr. Sidhu can notify Municipal Licensing and Standards in one of the following ways:
  - in person at 850 Coxwell Ave, Toronto, Ontario M4C 5R1;
  - via regular mail to: 850 Coxwell Ave, Toronto, Ontario M4C 5R1;
  - via email to [mlsconditionreporting@toronto.ca](mailto:mlsconditionreporting@toronto.ca); or
  - via fax at 416-392-3102
- (5) During the probationary period, if Municipal Licensing and Standards has concerns with any new charges or convictions against Mr. Sidhu, those matters and Report no. 7033, and any updating material, may be brought back before the Tribunal for a full hearing.

Originally Signed

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Moira Calderwood, Hearing Panel Chair  
Panel Members, Melina Laverty and Daphne Simon concurring

Reference: Minute No. 129/18

**Date Signed:** July 31, 2018