

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

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**Date of**

**Hearing:** April 11, 2019

**Panel:** Daphne Simon, Hearing Panel Chair;  
Melina Laverty and Victoria Romero, Panel Members

**Re:** Tsehaye Ghebreab Teklehaimanot (Report No. 7163)  
Applicant for the Renewal of Vehicle-For-Hire Driver's Licence No. D01-4179400

**Counsel for Municipal Licensing and Standards:** Amy Murakami

**Counsel for Applicant:** Unrepresented

### **INTRODUCTION**

1. Mr. Teklehaimanot requested a hearing before the Toronto Licensing Tribunal to determine if his renewal for a Vehicle-For-Hire Driver's Licence should be issued after it was denied by Municipal Licensing and Standards (MLS) on November 16, 2018.
2. The matter was heard on April 11, 2019. The Tribunal approved the renewal of Mr. Teklehaimanot's Vehicle-For-Hire Driver's Licence, with conditions. The Tribunal issued its decision orally at the hearing and these are the written reasons for the decision.

### **MLS EVIDENCE**

3. Ms Andrea DiMatteo, Supervisor with MLS, and her staff prepared MLS Report No. 7163 regarding Mr. Teklehaimanot's application for the renewal of his Vehicle-For-Hire Driver's Licence. This 23-page report, was admitted in the hearing as Exhibits 1.
4. Ms DiMatteo was the only witness for MLS. She highlighted documentation in Exhibit 1 relating to Mr. Teklehaimanot's licensing history and his driving record. This included licence suspensions stemming from an incident on October 29, 2016 which lead to a criminal conviction of Impaired Operation by Alcohol and Drug. She also noted a voluntary conviction (through payment of fine) under the Highway Traffic Act (HTA) of Red Light – Owner Fail to Stop, offence date August 29, 2018.
5. Mr. Teklehaimanot's only question for Ms DiMatteo on cross-examination is whether or not she was aware that the Red Light – Owner Fail to Stop voluntary conviction related to his son who was driving his car and not to him personally. She admitted she was not aware of this.

April 11, 2019

## APPLICANT'S EVIDENCE

### 6. The Applicant was affirmed, and testified.

In testimony, in cross-examination, and in response to questions from the Panel, Mr. Teklehaimanot provided information about his driving record and his personal circumstances, including the following:

October 29, 2016 Incident:

- Mr. Teklehaimanot stated that he was attending a baptism at the community centre near his house on October 29, 2016. The celebrations started at 8pm.
- He drank approximately 3 shots of alcohol, similar to ouzo, within a 2 hour period.
- He left the community centre around 10:00pm.
- He stated that on his drive home the car in front of him, a Mercedes, decided not to proceed through a yellow light and stopped suddenly in front of him. He applied the brakes and 'touched' the back bumper of the Mercedes.
- The passenger of the Mercedes called police while the driver asked him to pay \$2000 in cash to fix the bumper damage.
- Mr. Teklehaimanot's car incurred about \$500 in damage to his car.
- There were no physical injuries as it was a minor accident.
- He was charged with Driving Over 80mg and Driving Operation Impaired by Drug and Alcohol. The first charge was withdrawn and he was convicted of the second charge on March 8, 2018.
- He incurred an automatic 3 month suspension of his licence. And then a further 8 month suspension which ended on September 8, 2018.
- He paid a fine of \$1600.
- He attended a Back-on-Track workshop.
- A mandatory ignition interlock was placed on in his car for a one-year period.
- The ignition interlock requires him to blow into a mouthpiece to turn on his car. It requires him to blow every half hour while driving his car. He is not able to drive on the highway as this also requires that he blow if going over 80km/hour. He testified that it is too distracting to do this while driving at high speed.
- The interlock will be removed on September 8, 2019.
- He has never had any other driving charges or convictions before or since this incident.

Personal Circumstances:

- He recently retired from his job at St. Joseph's Hospital, where he worked for approximately 30 years.
- He is married with three children aged 22, 24 and 14. His wife works at the hospital.
- He doesn't want to sit around at home in retirement and decided to apply for a taxi licence. He applied in 2011 and used his vacation days at the hospital to take the taxi licence courses.
- He has never used the taxi licence nor worked as a taxi driver, to date.

April 11, 2019

- He enjoys a social drink once or twice a week where he spends time with friends at a sports community bar. This bar is 700 metres from his home so he now walks or takes the bus or his son picks him up if he has consumed alcohol. He never operates a vehicle after consuming alcohol.
- He would like to drive a taxi once the interlock is removed from his vehicle.

## **SUBMISSIONS**

7. MLS submitted that although they have grave concerns regarding any matter that involves drinking and driving, they are satisfied that this was an isolated incident. MLS submitted that Mr. Teklehaimanot's licence be renewed, with conditions. The conditions included a suspension of the licence until September 9, 2019, that he surrender his taxi licence, photo identification card and deemed renewal letter to MLS, and a probation period for 3 years whereby Mr. Teklehaimanot would be required to provide a criminal record and judicial matters check upon each of the three renewals. Finally, a condition that all outstanding fees and documents be paid and brought up to date.
8. Mr. Teklehaimanot did not dispute his licence be suspended until September 9 or most of the conditions stipulated by MLS. The only issue he contested was that the probationary period be less than 3 years. He submitted that a 3 year probation is too long. He asked the Tribunal to consider issuing a shorter probation period, in the realm of 1-2 years.

## **DECISION**

9. In considering this matter, the Tribunal considered whether a 2 year probationary period, would satisfy the protection of the public interest. The Tribunal determined that a 2 year probationary period, along with the other conditions on his licence, would satisfy the protection of the public in this matter.
10. Any incident that involves alcohol or drugs while driving is considered serious and should be of concern to MLS and to the public safety. In this case, Mr. Teklehaimanot's driving record is otherwise clear and he stated the voluntary conviction for fail to stop at a red light involved his son, who paid the fine. The latter incident did not appear on Mr. Teklehaimanot's driving abstract and Ms DiMatteo admitted that the offence was linked to the car not the driver.
11. When Mr. Teklehaimanot described the events that took place on October 29, 2016, the Tribunal noted that he was very forthright in giving his evidence. He did not exaggerate nor was he vague in his description of the events that led to his conviction. His actions and changes in behavior since the incident show that he is conscientious and took this matter seriously. He does not mix drinking with driving anymore and finds other ways to get home if he has consumed alcohol. He has completed, and is in the process of completing, everything that was required as a result of the conviction, including having an interlock ignition in his car for a period of one year. He is aware of his responsibilities and has taken ownership of this mistake. Mr. Teklehaimanot described this as a single mistake in an otherwise clean driving record. He is still interested in working as a taxi driver once the

April 11, 2019

- interlock is removed from his vehicle. He does not want to sit at home during retirement and “grow old”, as he stated. He is committed to working as a taxi driver and has been conscientious in taking steps to obtain and renew his licence and take the appropriate courses.
12. This is Mr. Teklehaimanot’s first appearance before the Toronto Licensing Tribunal. Even though he continued to renew his Vehicle-For-Hire Driver’s Licence since 2011, he has never worked as a taxi driver. It was as a result of the impaired driving conviction on March 8, 2018 that MLS declined to renew his Vehicle-For-Hire Driver’s Licence. He had never been charged with a driving-related alcohol offence before or since this incident.
13. The Municipal Code provides in part:
- § 546-4. Grounds and administrative thresholds for denial of 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 to belief [sic] that the carrying on of the business by the applicant has resulted, or will result, in a breach of this chapter or any 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 of the public, or has endangered, or would endanger, their health or safety.
14. The Tribunal was entirely satisfied on the evidence at the hearing that it has reasonable grounds to believe that the Applicant will carry on his business in accordance with the law and with integrity and honesty, that his carrying on the business will not result and will not breach this chapter or any law, and that his carrying on the business has not infringed or would not infringe the rights of members of the public or would endanger their health or safety. However, to address our concerns related to his past conduct and to enhance public safety, we consider this to be an appropriate case for conditions.
15. As such, the Tribunal orders the Vehicle-For-Hire Driver's Licence to be renewed, 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;

April 11, 2019

- (2) Immediately upon being renewed, Vehicle-For-Hire Driver's Licence will be suspended until September 9, 2019. Mr. Teklehaimanot must surrender his licence, deemed to continue letter and Photo ID card to Municipal Licensing and Standards immediately;
- (3) Immediately upon being renewed, Vehicle-For-Hire Driver's Licence will be placed on probation for a period of two (2) years. Mr. Teklehaimanot is advised that during the probationary period, MLS may make additional checks of any driving, criminal, and by-law charges and convictions against Mr. Teklehaimanot and conduct other investigations, as appropriate, to assess Mr. Teklehaimanot's compliance with the requirements of Chapter 546 of the Municipal Code and other applicable laws;
- (4) Prior to each of the next two (2) renewals of the licence, Mr. Teklehaimanot must provide to Municipal Licensing and Standards, at his own expense, an original up-to-date abstract of his Criminal Record and Judicial Matters Check;
- (5) During the probationary period, if Municipal Licensing and Standards has concerns with any new charges or convictions against Mr. Teklehaimanot or any other concerns with respect to the conduct of the licensee, those matters and report no. 7163 and any updating material, may be brought back before the Tribunal for a full hearing.

Originally Signed

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Daphne Simon, Hearing Panel Chair  
Panel Members, Melina Laverty and Victoria Romero concurring

Reference: Minute No. 69/19

**Date Signed: May 7, 2019**