

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

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**Date of Hearing:** June 13, 2019

**Panel:** Melina Laverty, Panel Chair;  
Anu Bakshi and Mary Lee, Panel Members

**Re:** Mohamed Awad Ali (Report No. 7164)  
Applicant for the Renewal of Vehicle-For-Hire Driver's Licence  
No. D01-3110081

**Counsel for Municipal Licensing and Standards:** Matthew Cornett

**Counsel for Applicant:** Unrepresented

**Arabic Interpreters:** Sura Jadir  
Faysal Mohamad

### **SUMMARY**

Mr. Ali has held a Taxicab Driver's Licence for approximately 17 years. During the renewal process, the Municipal Licensing and Standards (MLS) became aware that Mr. Ali had been recently convicted of "careless driving" under the Highway Traffic Act (HTA) and that his Ontario provincial driver's licence was suspended.

As a result of concerns with Mr. Ali's driving record, MLS sent Mr. Ali a letter outlining the grounds for denial of a licence. Mr. Ali requested a hearing before the Toronto Licensing Tribunal (the Tribunal or TLT).

After hearing the evidence and submissions of the parties, the Tribunal revoked Mr. Ali's Vehicle-For-Hire Driver's Licence.

### **INTRODUCTION**

1. On December 12, 2001, Mr. Ali was issued a Taxicab Driver's Licence. It was to expire on December 12, 2018.
2. On October 16, 2018, as part of the renewal process, MLS became aware that Mr. Ali was convicted of "careless driving" under the HTA, and that his Ontario provincial driver's licence was suspended.
3. Prior to its expiration, Mr. Ali submitted his renewal payment along with an updated three-year driver's record to MLS.
4. On November 22, 2018, MLS sent Mr. Ali a letter outlining the grounds for denial of a licence. On December 5, 2018, Mr. Ali requested a hearing before the Toronto Licensing Tribunal.

June 13, 2019

## **ISSUE**

5. The issue before the Tribunal is whether Mr. Ali's conduct (as evidenced by his record of charges and/or convictions under the HTA, Compulsory Automobile Insurance Act [CAIA], and the City of Toronto bylaw) provides reasonable grounds to believe that:
  - i. Mr. Ali will not operate a Vehicle-For-Hire in accordance with law, and with honesty and integrity; or
  - ii. his operation of a Vehicle-For-Hire has resulted or will result in a breach of the law; or
  - iii. his operation of a Vehicle-For-Hire would infringe the rights of other members of the public or endanger public health and safety.

## **CITY'S EVIDENCE**

Ms Andrea Di Matteo, Supervisor, MLS, is familiar with MLS Report No. 7164. That report, along with a four-page update from June 12, 2019 (consisting of an MLS chart, ICON data, and a three-year driver record for Mr. Ali), was entered as Exhibit 1 ("the report").

Ms Di Matteo was the only witness for MLS. She highlighted documentation in Exhibit 1 relating to Mr. Ali's licensing history and driving record, including charges and convictions under the HTA, CAIA, and the City of Toronto bylaw.

In testimony, on cross-examination and in response to questions from panel members, Ms Di Matteo indicated as follows:

7. According to Mr. Ali's driving record, his provincial driver's licence was suspended from August 16 to November 16, 2018, following a conviction for careless driving on August 16, 2018. In addition, his three-year driving record showed that Mr. Ali had been convicted of speeding (65 km/h in a 50 km/h zone) in October 2016, and of failed to stop at a sign or roadway marking at an intersection in February 2018.
8. Since March 2013, Mr. Ali was charged 17 times under the HTA with 10 convictions; 16 of those charges occurred in a taxi. In that time, he was also charged once under the CAIA while operating a taxi.
9. Since June 2017, Mr. Ali has been charged with "careless driving" four times.
  - a. On June 3, 2017, Mr. Ali was driving his taxi, and waiting to make a left turn onto Kingston Road. A pedestrian was crossing the intersection in the crosswalk and had the right of way. Mr. Ali's taxi struck her and she fell to the ground. She was transported to hospital where she succumbed to her injuries. Mr. Ali said he did not see the pedestrian in the crosswalk (p. 96 of the report).

June 13, 2019

- b. On July 19, 2017, Mr. Ali was picking up a passenger in front of the Chelsea hotel on Gerrard Street. Mr. Ali was not paying attention to pedestrian traffic, and struck a pedestrian, causing him to fall to the ground. The pedestrian was transported to hospital and treated (p. 99 of the report).
  - c. On January 5, 2018, Mr. Ali was driving along Danforth Avenue when he rear-ended a pick-up truck. The police report indicated Mr. Ali's car sustained heavy damage (\$8,000) and the truck's bumper had minor damage (\$1,000) (p. 101 of the report). The truck driver sustained minor back pain and was transported to hospital by ambulance.
  - d. On July 24, 2018, a person was operating a motorized wheelchair and crossing from the northwest to the southwest corner of Gerrard and Elizabeth Street. Mr. Ali's car was halfway through the intersection when he made a left turn. He did not see the wheelchair, hit it, and sent the person flying out of the chair. The person was taken to a trauma centre (p. 105 of the report).
10. Mr. Ali's most recent offence under the HTA was "drive motor vehicle using handheld device" on August 11, 2018. That charge is still before the courts. That offence occurred in a taxi.
11. Since May 2002, Mr. Ali was charged 16 times and convicted six times under the City of Toronto bylaw.

## **APPLICANT'S EVIDENCE**

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

- 12. He has been driving a car in Toronto since 1991, and a taxi since 2001.
- 13. Taxi drivers in the City are under a lot of pressure. They face pressure from MLS, garages, the police, and live in fear. It is hard to survive. He works seven days a week. He does not have his own car. He gets up every morning at 2:30 a.m. to catch the bus, so he can pick up the taxi at 4:30 a.m. and start his shift.
- 14. Because he is a taxi driver, his wife expects him to come home with tickets; when he comes home at the end of the day, she asks him to show her any tickets.
- 15. He was charged four times for "careless driving," but he was not driving carelessly in all of these cases. The police called it "careless driving" and charged him with this offence, but this is because he is a taxi driver, and the police treat taxi drivers unfairly. No one respects taxi drivers.

June 13, 2019

- a. On June 3, 2017, he was on his way to pick up a fare, and the lady he hit passed away. He never came to this country to kill someone. He knows it is terrible what happened and he spoke to his imam about what he should do because of what happened. He accepts responsibility for this. This was his mistake and he is sorry.
  - b. On July 19, 2017, at the Chelsea Hotel, he was in the driveway and had picked up a passenger. He collided with the pedestrian. It was a very narrow lane, as there was construction for a high rise building on the other side of the street. The pedestrian stepped in front of his car. The pedestrian was not injured. It was the manager at the Chelsea Hotel who insisted an ambulance be called. The injured man did not want to go, and was concerned Toronto General Hospital would charge him \$1,600. The pedestrian was standing in the driveway not on the sidewalk when he hit him. He does not know why they took the pedestrian to hospital. The pedestrian did not even have a scratch on him. The witness did not attend court. He agreed that it was the driver's responsibility to watch for pedestrians while driving.
  - c. On January 5, 2018, when he hit the pick-up truck, it was dark and snowy with ice on the ground. He was driving and the traffic was moving, when the truck in front of him suddenly stopped. He had no other option as on his right were parked cars, and to the left there was lots of oncoming traffic. His car's hood and bumper were damaged, and he had them replaced. It cost him about \$1,300 to make the repairs, so much less than the police estimated. He was driving a Toyota, and the car he hit was a Ford pick-up truck, and so the truck was not very damaged. The truck driver was taken to hospital by ambulance, but he was not very injured. He agreed that when driving you need to stay a safe distance from the car in front. He did make a mistake, but it was the kind of mistake that could happen to anyone. He agreed he should have been more careful, but he should not have been charged with "careless driving."
  - d. On July 24, 2018, he was making a left turn and hit a motorized wheelchair. The person in the wheelchair was taken to hospital. He was focussed on the light which was turning red. He wanted to make the left turn before the light turned. When he hit the wheelchair, the light was already red. He agreed it is the driver's obligation to make a turn safely.
16. He has driven a taxi since 2001. Before that he was a security guard and machinist. He can no longer do these jobs, as he is not well enough. He has no other means besides taxi driving to earn a living. When he was laid off as a machinist, driving a taxi was his only option. He drives 12 hours a day every day of the week. He can only walk a short distance before getting tired (about 20 metres). He has never applied for social assistance and has always worked. Now his wife supports him. She is a teacher. They do not have any kids.
17. He has not driven the taxi since November 20, 2018. MLS staff told him he could drive, but he decided not to as not to take any chances. His wife is a teacher and supports him, otherwise he relies on his credit card. He applied for

June 13, 2019

government assistance, but did not receive it. He did not qualify for the Canada Pension Plan (CPP) as he has not had enough income in the last three years. He also did not qualify for Disability Support Plan (ODSP). He also takes 10 different medications and needs to pay for them.

18. He has no children, but does send some money occasionally to his sister who lives abroad.
19. He had been working seven days a week, 12 hours a day. He has no private car, and uses the taxi to shop for groceries, go to medical appointments, and to take day trips with his wife.

## **CITY'S SUBMISSIONS**

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

20. The Tribunal should not renew Mr. Ali's Vehicle-For-Hire Driver's Licence, as there are concerns about public safety and about Mr. Ali's honesty and integrity.
21. Since March 2013, Mr. Ali has incurred 18 charges under the HTA or CAIA, and 10 convictions under the HTA. All the offences occurred in a taxi except one. Mr. Ali has been convicted of speeding, an unsafe turn, improper stop, and careless driving.
22. He has been charged with careless driving four times in the last two years, and one of those charges led to a conviction, and in that incident the pedestrian died. In the three other incidents, two pedestrians and one driver were taken to hospital. There is a clear risk to public safety if Mr. Ali's licence was renewed.
23. Mr. Ali acknowledged each incident and that it was his responsibility to drive safely, but he also put forward a theory that he was targeted by the police because he was driving a taxi, and the charges were excessive. Police officers are trained to exercise their judgement when deciding to lay charges, and if there are reasonable grounds to do so. The synopses of the incidents support the laying of the charges. Mr. Ali's view that the charges were unjustified suggests he has not taken full responsibility for them. MLS is concerned Mr. Ali will not operate a taxi with honesty and integrity.
24. MLS recognizes that Mr. Ali relies on this job for his livelihood, it is his only job, and he does not seem likely to be able to obtain other employment. However, his wife supports him, and otherwise Mr. Ali has no dependents. The City sympathizes with Mr. Ali and that he will be unable to support himself personally. However, given the extreme risk to public safety if he is licensed, his livelihood needs do not outweigh our concern.

June 13, 2019

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## **APPLICANT'S SUBMISSIONS**

Mr. Ali submitted that:

25. In his view, he should have conditions placed on his licence, such as probation for four years and a suspension for a set number of days. He is not going to beg for his licence. If we don't give him his licence, his wife will support him.
26. He has tried to be honest. These things can happen to anyone. We all make mistakes. Police officers are human too and make mistakes. He does not care if MLS thinks he has been dishonest, he only owes a duty to the creator. Even if you kill someone, you can be forgiven.

## **ANALYSIS**

27. Section 546-4 A of the Toronto Municipal Code sets out the grounds for denying to renew a licence. Having weighed the evidence, the Tribunal is satisfied that those grounds have been met, and there are reasonable grounds to believe that Mr. Ali will not operate his taxi in accordance with the law, that his operation of a taxi has resulted in a breach of the law, and that Mr. Ali's operating of a taxi would endanger the public.
28. The main concern is Mr. Ali's recent driving record. Since March 2013, Mr. Ali has been charged 17 times under the HTA and convicted 10 times, in all but one case he was driving a taxi.
29. Most troubling is that Mr. Ali has been charged with careless driving four times since June 2017. In the first incident, a pedestrian died. In the three other incidents, two pedestrians and one driver were taken to hospital. Though only one of these charges led to a conviction, nevertheless the facts on two of the other three cases are concerning.
30. In June 2017, Mr. Ali hit and killed a pedestrian at an intersection. The pedestrian was in the crosswalk, crossing at a light and had the right of way. Mr. Ali was making a left turn, and takes full responsibility for what occurred. He admits it was his mistake.
31. In July 2017, Mr. Ali hit another pedestrian in front of the Chelsea Hotel after picking up a passenger. The pedestrian was taken to hospital by ambulance though Mr. Ali indicates it was unnecessary and the pedestrian was not hurt.
32. In January 2018, Mr. Ali rear-ended a truck, damaging both vehicles. The truck driver was taken to hospital by ambulance.
33. In July 2018, Mr. Ali was waiting to make a left turn, a motorized wheelchair was crossing the street at the intersection while the light was turning. Mr. Ali admits he was focussing on the traffic light which was turning red, did not see the wheelchair and when he hit it, he knocked the person out of the chair.

June 13, 2019

34. Mr. Ali has taken responsibility for the most serious of the “careless driving” offences, in which the pedestrian died. However, the Tribunal was concerned that he did not take full responsibility for the other two incidents involving pedestrians. For example, Mr. Ali seemed to blame the pedestrian, suggesting the pedestrian stepped in front of the taxi. It was troubling to the Tribunal that only a month and half after Mr. Ali hit and killed a pedestrian in a crosswalk that Mr. Ali hit a pedestrian again. One would have expected him to have been extra vigilant.
35. The TLT agreed with Mr. Ali that the incident with the pick-up truck was more minor in nature in comparison to the others, and accepts Mr. Ali’s testimony that the icy and snowy road conditions contributed to the accident, and that the damage was less serious than what is set out in the police report. While it is important that drivers take extra precautions when driving in wintery conditions, we recognize that this type of accident may occur.
36. The more concerning pattern in our view was that of Mr. Ali driving without due care and attention to pedestrians. While there were no serious injuries in two cases, there could easily have been, and there was enough concern that the pedestrians were brought to hospital.
37. The Tribunal did not have any concerns with Mr. Ali’s honesty and integrity. Mr. Ali testified in straightforward and direct manner. Mr. Ali clearly assumed full responsibility for the June 3, 2017 incident when he hit and killed a pedestrian while making a left turn. While we had no concerns with his honesty and integrity, we did have concerns about whether Mr. Ali had taken responsibility for his driving history after that event.
38. In particular, Mr. Ali did not seem to recognize his contribution to the incidents, and the risks of not paying attention to pedestrians, nor did he accept that his actions amounted to careless driving. Mr. Ali believed that he was charged with careless driving, because police officers do not like taxi drivers. There seemed to be a disconnect, in that Mr. Ali agreed to the major facts underlying the “careless driving” charges, but only believed the incident where a pedestrian died to be serious. In our view, he failed to take full responsibility for his past conduct. Any time a car hits a pedestrian it is serious, and one is just lucky if the injuries are relatively minor.
39. Aside from the four “careless driving” offences which raises the most concern, Mr. Ali has been charged with several other HTA offences while driving a taxi: “driving using a handheld device” in August 2018, “improper stop traffic-signal intersection” in August 2017; “unsafe turn/lane change fail to signal” in May 2016, and March and July 2013, along with several speeding offences in March 2016, October 2015, May 2014. Though these offences are less serious in nature, they all relate to driving in a safe manner and in accordance with the law.
40. Mr. Ali’s last HTA driving offence was August 11, 2018, and though he has not been charged with anything since then, we note that his provincial driver's licence was suspended on August 16, 2018 for three months until November

June 13, 2019

16. Mr. Ali also testified that he did not drive after receiving the MLS letter on November 20, 2018. In other words we cannot infer anything positive about the lack of recent charges as he has not been driving since about August 2018.
41. 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 applicant or licensee to earn a living, as set out in section 545-3 B (3)(c) of the Toronto Municipal Code.
42. There is no doubt that Mr. Ali will have difficulty supporting himself without his licence, and relies on the vehicle for other uses. In addition, Mr. Ali is 62 years old, and retraining for other types of work would be challenging at this stage of life. Though he has been a machinist, we accept as he testified that he is no longer well enough to do that type of work, and has limited options for securing other employment. At the same time, Mr. Ali has no dependents and his wife is able to support him.
43. Overall the Tribunal concluded that Mr. Ali's livelihood needs did not outweigh our concerns about public safety, given the serious nature of the recent careless driving incidents.

## **DECISION**

For the reasons set out above:

The Tribunal revokes the Vehicle-For-Hire Driver's Licence of Mr. Ali.

Originally Signed

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Melina Laverty, Panel Chair  
Panel Members, Anu Bakshi and Mary Lee concurring

Reference: Minute No. 106/19

**Date Signed:** July 12, 2019