

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

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**Date of**

**Hearing:** August 15, 2019

**Panel:**

Anu Bakshi, Panel Chair;  
Daphne Simon and Verlyn Francis, Members

**Re:**

Moauzam Bhangoo (Report No. 7101)  
Applicant for a Vehicle-For-Hire Driver's Licence  
(Application No. B861303)

**Counsel for Municipal Licensing and Standards:**

Lauren Elliott

**Counsel for Applicant:**

Unrepresented

### **INTRODUCTION**

Mr. Bhangoo applied for a Vehicle-For-Hire Driver's Licence on September 4, 2018. As part of the application process, Mr. Bhangoo submitted a police background check from Durham Police dated July 23, 2018 and a three year driver's record from the Ministry of Transportation dated September 4, 2018. Of particular note, Mr. Bhangoo was convicted of operation of a vehicle with blood alcohol content in excess of 80 mg on February 16, 2016 and Driving while disqualified or prohibited and Personate with intent on February 16, 2017.

Municipal Licensing and Standards (MLS) denied issuance of a Vehicle-For-Hire Driver's Licence. Mr. Bhangoo requested a hearing before this Tribunal and a hearing on this matter was held on August 15, 2019.

The issue before the Tribunal was whether Mr. Bhangoo's Vehicle-For-Hire Driver's Licence should be issued, suspended, or have conditions placed upon it.

After the hearing, the Tribunal gave an oral decision to grant the licence with conditions. These are the written reasons for that decision.

### **MLS EVIDENCE**

Ms Andrea Di Matteo, Supervisor with MLS, was the sole witness for MLS. She was questioned on the documentary evidence found in Report No. 7101 (Exhibit 1).

She highlighted documentation in Exhibit 1 relating to Mr. Bhangoo's licensing history and his driving record. This included licence suspensions stemming from an incident on January 27, 2015 which lead to a criminal conviction of Blood Alcohol Concentration over 80 mg on February 16, 2016 ("BAC Conviction"). As a result of the BAC Conviction, Mr. Bhangoo's driver's licence and Vehicle-For-Hire licence were suspended.

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Ms Di Matteo outlined that on July 23, 2016, Mr. Bhangoo drove a taxi through a ride spot check. During this spot check, one of the police officers recognized Mr. Bhangoo as a suspended driver. According to the prosecution summary on page 142, Mr. Bhangoo provided a driver's licence/identity of another individual. It stated that he was adamant that it was his identity. As a result of this incident, Mr. Bhangoo was convicted of driving while disqualified and Personate with intent on August 25, 2017. The Report indicated that he was also convicted of 21 Toronto Bylaw offences that took place from July 2004 to February 2014, relating to such infractions as no operators log and unauthorized parking of a taxicab waiting for hire. He was also convicted of speeding on November 26, 2013.

She testified that Mr. Bhangoo's driver's licence was suspended until July 4, 2018. The driving suspension was supposed to end February 16, 2017, but it was further suspended because he failed to complete the remedial program.

Mr. Bhangoo did not cross-examine Ms Di Matteo.

## **APPLICANT'S EVIDENCE**

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

Mr. Bhangoo was a licensed taxicab driver in the City of Toronto since 2005. This was his only employment since arriving in Canada in 2002.

### January 27, 2015 incident

Mr. Bhangoo was not a regular drinker on January 27, 2015. On that night, he dropped off his last customer at about 7:00 pm. He then drove to a friend's house and stopped working. At about 9:00 pm, he drank about three drinks of Johnnie Walker whisky at a friend's house while watching a movie. Alone, he left his friend's home to drive home at about 4:00 am. It was freezing rain and his car slid and hit the road divider. He was charged with BAC over 80 and Driving Operation Impaired by Drug and Alcohol. He pled guilty to BAC over 80 and the other charge was withdrawn. He pled guilty because he did it.

With respect to BAC Conviction, Mr. Bhangoo stated he made a serious mistake on January 27, 2015. He never drank any alcohol again since January 27, 2015. He made a promise to himself and his family to never drink again. He testified that it was a public safety issue.

### July 23, 2016 incident

As a result of the BAC Conviction, Mr. Bhangoo's licence was suspended on February 6, 2016. He tried to get a job, but he was unsuccessful. He became desperate for money and stressed. A friend offered Mr. Bhangoo to drive his taxi because he had no money. His friend's taxi identification and licence were in the cab at the time. It was a real mistake to drive while suspended.

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When he drove the taxi through a spot check, the police officer recognized him from the July 27, 2015 incident. The police officer questioned him why was he driving while suspended. His friend's identification was in the cab. Contrary to the Prosecution Summary at page 143 of Exhibit 1, Mr. Bhangoo did not agree that he argued with the police officer about his identity or that he was "adamant" that he was someone else. Mr. Bhangoo stated that it was the same officer he had dealt with before so the officer knew him. It was a short discussion with the police officer. He was charged and convicted of driving while disqualified or prohibited and personate with intent on February 16, 2017.

### Length of Suspension

Mr. Bhangoo's licence was suspended from February 17, 2016 to July 4, 2018. There was also automatic three-month suspension right after the BAC over 80 charge. His driving licence was originally suspended to February 17, 2018, but it was extended because he failed to complete the remedial program. The reason he did not complete the remedial program is because he did not understand the system, or appreciate that there was a difference between the criminal process and the Ministry of Transportation requirements to obtain his licence. He completed the Back on Track program over a year ago. Then, an ignition interlock was placed in his car from July 4, 2018 to July 4, 2019.

Mr. Bhangoo referred to an updated driving abstract dated August 15, 2019, which confirmed he no longer has an ignition lock device (Exhibit 4).

### Personal Circumstances

Since his suspended driver's licence, Mr. Bhangoo testified that he applied for jobs, but he was unsuccessful. He depleted his savings, borrowed from friends and sold his assets to make ends meet. He did not receive any government assistance because he made serious mistake on January 25, 2015 by drinking and driving, and he felt it was his responsibility. He did not want to burden the government with his mistake.

At this time, he testified he has no income, and lives with his wife and daughter. His wife works part-time, and his daughter is starting university this fall. He was unsure how the family will afford her education. He completed the Back on Track program, a medical review, and other government requirements to get his driver's licence back. He has been driving basically every day since July 4, 2018, except when he was away in his home country from January to April 2019 due the illness of a relative.

## **SUBMISSIONS**

Ms Elliott submitted that the Applicant should not be issued a licence as his conduct was a violation of Toronto Municipal Code Chapter 545 sections 545-4. The criminal convictions are serious and are directly related to his work as a taxi cab driver and public safety. The Applicant's licence was reinstated in 2018, and he was required to have an interlock device until July 2019. During this period, he was away to his home country for several months. There has not been sufficient time to show whether Mr. Bhangoo will comply with the law. She argued, given the seriousness of the convictions, Mr. Bhangoo

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should not hold a taxi cab licence as there are reasonable grounds to believe that he would not conduct himself in accordance with the law, and with honesty and integrity.

Mr. Bhangoo admitted that he made mistakes and takes responsibility for them. His daughter is going to university, and he needs and wants to work. He stated that he is part of the society and he wants to work. He emphasized that he learned his lesson and has not drunk alcohol since January 2015. The incidents occurred in 2015 and 2016; he submitted there have been no new charges since that time.

## **DECISION**

Section 546-4 of the Toronto Municipal Code sets out the reasons for denying a licence, including the following:

- 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.

The Tribunal did not have reasonable grounds to believe that Mr. Bhangoo had breached the Code. The Tribunal did not have any concerns with Mr. Bhangoo's honesty and integrity. Mr. Bhangoo testified in straightforward and direct manner. Mr. Bhangoo clearly and unequivocally assumed full responsibility for the January 27, 2015 incident when he was drinking and driving. He did not dispute the major facts underlying the BAC Conviction. He believed that the incident was serious. In acknowledging his responsibility, he thought he should not burden society for his mistake and he did not apply for any social assistance despite difficult financial circumstances.

In cross-examination, Ms Elliott mistakenly asserted that Mr. Bhangoo's driving licence continued to require an ignition lock. Mr. Bhangoo remained calm and polite when pressed about the issue. He explained that the ignition lock requirement was removed over a month ago and he produced evidence to support his point. The driving abstract dated January 23, 2019 (Exhibit 2) was outdated. An updated driving abstract dated August 15, 2019 confirmed that he no longer has an ignition lock device (Exhibit 4).

The Panel accepted Mr. Bhangoo's testimony about the events that led to the July 23, 2016 incident when he was convicted of driving while disqualified and Impersonate with Intent. He was desperate for money. He described himself as "mentally disturbed" due to his financial circumstances. Mr. Bhangoo was forthright in his admission the decision to drive a friend's taxi was a lapse in judgment. There were no new charges regarding driving with a suspended licence since that time.

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The mandate of this Tribunal is set out in part in the Toronto Municipal Code, § 546-8 (A)(3)(c). The Tribunal must balance the protection of the public interest with the need for licensees to make a livelihood.

While there is no question drinking and driving is a serious public safety concern as well driving with a suspended licence and Impersonation with Intent, the Panel was persuaded by Mr. Bhangoo's testimony that he understood that he should not have been drinking and driving. He completed the Back on Track program and the Ministry requirements to obtain his licence. He said he no longer drinks alcohol, and has not had a drink for about four years. He stated that he promised himself and his family that he would never drink again. Overall, the Tribunal found Mr. Bhangoo's testimony to be straightforward and credible. We accepted his explanation of the events that lead to the criminal charges. His testimony and his actions since that time convinced the Panel that he acknowledges the severity of his lapse in judgment, and we accept his sincere assurance that he would not breach the law in the future if granted a licence. In addition, we did not believe he would be a risk to public safety. This is evidenced by the fact that these incidents occurred in 2015 and 2016 and there have been no charges since this time.

The Panel considered the submissions of Ms Elliott regarding balancing the protection of the public interest with the need for Mr. Bhangoo to make a livelihood. Mr. Bhangoo established his need to make a living. He did not apply for any government benefits, such as social assistance, since the suspension of his licence because he did not want to burden the government with his mistake. Instead, he depleted his savings, obtained loans from friends and sold his personal assets. He has been unable to find any other work. He does not know how he will provide for his family, including his university aged daughter.

Given the lengths to which he went to try to find other work and to provide for his family, the Panel determined that Mr. Bhangoo's need to earn a livelihood outweighed any perceived risk to the public. As such, the application for a Vehicle-For-Hire Driver's Licence should be granted.

The Panel noted that the Applicant had been an active taxicab driver in Toronto since 2005. We accepted Mr. Bhangoo's acknowledgement that he made a serious mistake in both drinking and driving as well as his desperate financial circumstances that led to the mistake of driving without a licence about six months after the suspension.

We recognize that not much time has passed since the interlock device was removed, and there are still risks that he might make the same mistake again. In our view, the public interest would be further protected with the imposition of a three year probationary period.

The Tribunal orders the Vehicle-For-Hire Driver's Licence 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 application may be cancelled;

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- (2) Immediately upon being issued, Vehicle-For-Hire Driver's Licence will be placed on probation for a period of three (3) years. Mr. Bhangoo is advised that during the probationary period, MLS may make additional checks of any driving, criminal, and by-law charges and convictions against Mr. Bhangoo and conduct other investigations, as appropriate, to assess Mr. Bhangoo's compliance with the requirements of Chapter 546 of the Municipal Code and other applicable laws; and
- (3) During the probationary period, if Municipal Licensing and Standards has concerns with any new charges or convictions against Mr. Bhangoo or any other concerns with respect to the conduct of the licensee, those matters and Report No. 7101 and any updating material, may be brought back before the Tribunal for a full hearing.

Originally Signed

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Anu Bakshi, Panel Chair  
Panel Members, Daphne Simon and Verlyn Francis concurring

Reference: Minute No. 144/19

**Date Signed:** October 11, 2019