

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

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**Date of Hearing:** June 17, 2020 (Teleconference Hearing)

**Panel:** Anu Bakshi, Panel Chair;  
Edgar-André Montigny and Mary Lee, Members

**Re:** Kami Salehi (Report No. 7141)  
Applicant for the Renewal of Toronto Taxicab Owner's Licence  
No. V00-4426607, Plate No. 4184

**Counsel for Municipal Licensing and Standards:** Jennifer Boyczuk

**Counsel for Applicant:** Unrepresented

### **INTRODUCTION**

Municipal Licensing and Standards ("MLS") requested that Mr. Salehi appear before the Toronto Licensing Tribunal to determine whether or not his Toronto Taxicab Owner's Licence ("Owner's Licence") should be renewed, suspended, revoked, or have conditions placed on it.

On November 13, 2018, MLS informed Mr. Salehi that his Owner's Licence would be subject to review by this Tribunal because of a criminal charge of robbery/theft with violence arising out of an incident that occurred on October 28, 2018. On November 28, 2018, Mr. Salehi submitted his Taxicab Plate number 4184 to MLS for safekeeping. On June 17, 2019, this Tribunal adjourned this matter sine die, pending the outcome of the criminal proceedings and ordered an interim suspension of Mr. Salehi's Owner's Licence. The hearing was before this Tribunal on June 17, 2020.

Mr. Salehi did not attend the electronic hearing despite being served with the Notice of Hearing to the email that he provided to this Tribunal. Tribunal staff also made calls to the numbers that he provided before the hearing.

The issue before the Tribunal was whether Mr. Salehi's Owner's Licence should be renewed, suspended, revoked, or have conditions placed on it.

After the hearing, the Tribunal gave an oral decision to revoke the Owner's Licence, but the revocation is suspended to end of business day October 17, 2020 to give Mr. Salehi time to dispose of Taxicab Plate number 4184. These are the written reasons for that decision with an amended Order.

### **MLS EVIDENCE**

Ms Olga Kuztelska, Supervisor with MLS, was the sole witness for MLS. She explained that MLS was concerned about Mr. Salehi's criminal charges of robbery with violence when MLS

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requested Mr. Salehi to appear before this Tribunal. She was questioned on the documentary evidence found in Report No. 7141 (“the Report” -Exhibit 1) and updates to the Report.

In her testimony, she highlighted that Mr. Salehi held a Vehicle-For-Hire Driver’s Licence (“Taxi Licence”) from 1990 to January 5, 2015. He currently does not have a Taxi Licence.

Mr. Salehi was issued an Owner’s Licence on January 5, 2015. On November 13, 2018, the Owner’s Licence was suspended when he turned his plates in to MLS. Mr. Salehi told MLS staff that he had no business and he was ill when he turned in his plates (page 11 of the Report).

On or about July 23, 2019, Mr. Salehi pled guilty to one charge of assault as a result of an altercation that took place on October 28, 2018. According to the Synopsis for a Guilty Plea at page 12 of the Report, Mr. Salehi was driving his taxi, and he was flagged down by the customer and his girlfriend. The customer directed Mr. Salehi to stop at a convenience store before continuing to the final destination. The customer and his girlfriend made purchases. Both the customer and his girlfriend engaged Mr. Salehi in conversation. The girlfriend began walking westbound, followed by the customer. Mr. Salehi approached the customer and began to push, kicked and punched him. Mr. Salehi was driving taxi number 4185 at the time even though he did not hold a taxi licence.

In the Synopsis for a Guilty Plea, the customer alleged that his wallet fell on the ground and that Mr. Salehi took it. Parts of the convenience store surveillance video was also presented and marked as Exhibit 3.

Mr. Salehi was also convicted of two Toronto Municipal Code offences for driving taxi without a Taxi Licence and without an Owner’s Licence in May 2019. The MLS officer’s notes indicate that his taxi light was turned on and no Toronto taxi plate was fixed to the vehicle.

A Ministry of Transportation Search dated June 16, 2020 noted that Mr. Salehi’s driver’s licence was suspended until February 28, 2021 due to an impaired driving conviction. There was also a conviction for failing to stop at an intersection registered on March 5, 2020. This document was marked as Exhibit 5.

Ms Kuztelska testified that the sale price for an Owner’s Licence is about \$11,500 at this time. Mr. Salehi’s taxi plate remains at the MLS office, and MLS does not have any information about insurance on the vehicle.

## **MLS SUBMISSIONS**

Ms Boyczuk submitted that Mr. Salehi’s conduct was a violation of Toronto Municipal Code Chapter 546-4. She requested that Mr. Salehi’s Owner’s Licence be revoked, but the revocation to be suspended for three months to give Mr. Salehi ample time to dispose of his taxicab plate.

Ms Boyczuk argued that the November 13, 2018 assault was serious and took place when Mr. Salehi was driving his taxi without a Taxi Licence. The victim of the assault was a customer.

Mr. Salehi surrendered his plates in November 2018 and his licence was suspended. She submitted that Mr. Salehi has been operating his taxi without Taxi Licence and without an Owner’s Licence as noted by the Toronto Municipal Code convictions in May 2019.

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Lastly, Ms Boyczuk argued that Mr. Salehi has shown poor judgment and noted that his driver's licence is currently suspended due to a conviction of impaired driving. His pattern of conduct is a risk to public safety and shows a willingness to disregard the municipal by-laws.

## **ANALYSIS**

Section 546-4 A of the Toronto Municipal Code sets out the grounds for revoking a licence. Having weighed the evidence, the Tribunal is satisfied on the evidence at the hearing that it has reasonable grounds to believe that Mr. Salehi has not carried on and will not carry on his business in accordance with the law and with integrity and honesty, that his carrying on the business has resulted and will result in a breach of this chapter or any law, and that his carrying on the business has infringed or would infringe the rights of members of the public and has endangered or would endanger their health or safety. The major concerns are that he has driven his taxi without a Taxi Licence and with a suspended Owner's Licence and he assaulted a customer in October 2018.

Mr. Salehi has a long standing licensing history. He held a Taxi Licence from 1990 to January 5, 2015. Mr. Salehi was issued his Owner's Licence on January 5, 2015, and it was suspended when he turned his plates in to MLS on November 13, 2018. Mr. Salehi told MLS staff that he had no business and he was ill when he turned in his plates. It is evident that he is no longer relying on his Owner's Licence to make a living. At the same time, there is evidence that Mr. Salehi has relied on the taxi business to support himself for many years from his prior licensing history. The Owner's Licence is an investment and holds value (although we make no findings as to the actual amount). Ms Kuztelska testified to an estimated sale price for an Owner's Licence, but no details of the source of this information were provided.

The criminal assault that took place on October 28, 2018 is concern for public safety. Mr. Salehi drove his taxi without a Taxi Licence and picked up passengers. He pushed, kicked and punched his customer as outlined in the Synopsis for a Guilty Plea and the video. He pled guilty to the charge of assault. We are satisfied that the assault took place while driving his Taxi.

The customer alleged that Mr. Salehi took his wallet. In review of Mr. Salehi's statement to police at pages 116-118 of the Report, Mr. Salehi denied taking the customer's wallet. He stated that he threw the wallet in the customer's face. Mr. Salehi admitted to the assault and explained to the police that the customer did not want to pay and insulted his wife and daughter. We are not convinced that a robbery took place based on the evidence before us. The video did not aid us in resolving the contradictions in the statements on this issue.

Troubling, in that same statement to the police, Mr. Salehi told police that his Taxi driver's licence had expired. Yet, he continued to drive his taxi. The May 2019 Toronto Municipal Code convictions for driving his taxi without a Taxi Licence and an Owner's Licence further indicate that he has not carried on and will not carry on his business in compliance of the law and with integrity and honesty.

Of note, Mr. Salehi's driver's licence was suspended until February 28, 2021 due to an impaired driving conviction. He was also convicted for failing to stop at an intersection registered on March 5, 2020. Given Mr. Salehi holds an Owner's Licence, but not a Taxi Licence, these convictions would be concerning, but they would not pose a major public safety risk in operating his business. Normally, Mr. Salehi would be hiring/contracting other taxi drivers to drive his taxi. However, in

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this case, these convictions are of concern given the fact that Mr. Salehi continued to drive his taxi without a Taxi Licence.

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. Mr. Salehi should have an opportunity to sell his Owner's Licence given his longstanding licensing history and his need to make a living. Given the current pandemic, it is appropriate to give him four months to dispose of his Owner's Licence.

The Tribunal ordered in its oral reasons that the Owner's Licence is revoked with the revocation suspended to end of business day October 17, 2020 to give Mr. Salehi ample time to dispose of Taxicab Plate number 4184. From the date of this Order until end of business day October 17, 2020, the Tribunal's suspension of the license, ordered on June 27, 2019, is deemed to continue.

Because October 17, 2020 is a Saturday, the Tribunal amends its original Order as follows:

The Tribunal orders the Owner's Licence is revoked with the revocation suspended to end of business day October 19, 2020 to give Mr. Salehi ample time to dispose of Taxicab Plate number 4184. From the date of this Order until end of business day October 19, 2020, the Tribunal's suspension of the license, ordered on June 27, 2019, is deemed to continue.

Originally Signed

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Anu Bakshi, Panel Chair

Panel Members: Edgar-André Montigny and Mary Lee concurring

Reference: Minute No. 54/20

**Date Signed: July 4, 2020**