

**REASONS FOR DECISION OF THE
TORONTO LICENSING TRIBUNAL (AMENDED)**

Date of Hearing: November 21, 2019
Panel: Mary Lee, Hearing Panel Chair;
Edgar-André Montigny and Anu Bakshi, Members
Re: Atif T. Mekheal (Report No. 7349)
Applicant for a Vehicle-For-Hire Driver's Licence (Application No. B942685)

Counsel for Municipal Licensing and Standards: Graham Thomson

Counsel for Applicant: Unrepresented

SUMMARY OF DECISIONS

On June 5, 2019, Atif T. Mekheal (the Applicant) applied for a Vehicle-For-Hire Driver's Licence. Municipal Licensing and Standards (MLS) denied the issuance of a licence. The Applicant requested a hearing before the Toronto Licensing Tribunal to determine whether a licence should be issued.

The matter proceeded to a hearing on November 21, 2019. After considering and hearing the evidence and submissions of the parties, the Tribunal decided to refuse a Vehicle-For-Hire Driver's Licence to the Applicant.

RELEVANT LAW AND MAIN ISSUE

1. Section 545-4. C Grounds 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:
 - (a) 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 the law and with integrity and honesty; or
 - (b) There are reasonable grounds to believe that the carrying on of the business by the applicant has resulted, or will result, in a breach of this chapter or any law;
 - (c) [...]
 - (d) [...]
 - (e) The conduct of the applicant or other circumstances afford reasonable grounds for belief that the carrying on of the business by the applicant has

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infringed, or would infringe, the rights of other members of the public, or has endangered, or would endanger, their health and safety.

2. The main issue before the Tribunal is whether the issuance of a Vehicle-For-Hire Driver's Licence to the Applicant is in the public interest.

MLS EVIDENCE

Mr. Thomson called one witness.

Ms Andrea Di Matteo, MLS Supervisor, was affirmed and testified as follows:

3. Ms Di Matteo is familiar with MLS Report No. 7349, plus a 3 Year Drivers Abstract dated November 20, 2019 all of which were entered in the hearing as Exhibit 1 ("the Report").
4. Ms Di Matteo, provided a background of Mr. Mekheal's history of charges and convictions under the *Trespass to Property Act*, *Government Property Traffic Act*, *Highway Traffic Act*, the *Criminal Code of Canada* and the *Toronto Municipal Code*. In particular the Report contained 23 charges under the *Trespass to Property Act* since 2018, resulting in 14 convictions. The most recent charges were in August 2019. There are also a numerous outstanding fines from the various convictions.
5. The Applicant did not cross-examine Ms. Di Matteo.

APPLICANT'S EVIDENCE

6. The Applicant was affirmed and testified.
7. In testimony, and in cross-examination, the Applicant provided information about his driving and criminal records and his personal circumstances, including the following:
8. The Applicant commenced his testimony stating that the criminal charges occurred over 19 years ago. Two of the three charges related to sexual assault and escape from custody were withdrawn. The Applicant stated that he did plead guilty to the charge of assault back in 1998. Since that time, he has no criminal record and he stated that has never been involved in criminal activities.
9. With regard to the 98 charges under the *Trespass to Property Act* stemming over 27 years, the Applicant stated that the charges are unfair and not legitimate but remains on his record. The Applicant did not deny that he has driven illegally at the Toronto Pearson International Airport. He stated that he is one of 35 people who formed a group to fight those charges, which he believes is not legitimate, and to request that the GTAA grant them permits. The name of the group is Airport Toronto Liberating Group ("Group"). The group hired a lawyer to argue that the airport is a public place and not federal government property.

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10. He stated that he is not a person to disobey the law and that this case is still before the courts. The Applicant further stated that he has been actively driving at the airport up until 5 months ago.
11. The Applicant further testified that he retired from the airport and wants to start driving for Uber. As his age is getting closer to retirement, he stated that he wants to do the right thing and clear his record with the City of Toronto.
12. The Applicant stated that he has permission from Uber to drive North of Toronto but they won't give him permission to drive in the Toronto area because of the outstanding charges in the City of Toronto. In closing, the Applicant stated that he is not a rebel and does not want to fight the law. He further stated that he wants to do the right thing and work legitimately and hopes the Tribunal will overlook the trespass charges.
13. Under cross-examination, the Applicant testified that he has not paid any of the outstanding fines or made financial plans to do so due to financial reasons.
14. Mr. Mekheal clarified under cross-examination that he still drops off clients at the City of Toronto airport. However, he does not pick up clients illegally from the airport as of 5 months ago. He also has a Brampton taxi licence. The Applicant affirmed that he was applying for a Vehicle-for-Hire Driver's licence as a means to drive for Uber in the City of Toronto.
15. He stated there was a similar case before the Tribunal many years ago. At that time, the Tribunal issued an Ambassador plate and granted that driver permission to drive at the airport. The Applicant called Hillel Guddes as a witness at the hearing to provide more details on this case. Mr. Guddes testified that the case is from 20 years ago. Mr. Guddes explained that the Group is a not-for-profit organization formed in the eighties to advocate against taxi monopoly at the airport.
16. Lastly, the Applicant stated that if the Tribunal granted a Vehicle-For-Hire licence, he could do the right thing and drive legitimately in the City of Toronto.

CITY OF TORONTO'S SUBMISSIONS

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

17. Mr. Mekheal is applying for a Vehicle-For-Hire Driver's Licence so he can drive for Uber in the City of Toronto. Even if the Applicant was granted this licence, he cannot drive Uber in the City of Toronto.
18. The Tribunal should refuse to issue a Vehicle-For-Hire Driver's Licence to Mr. Mekheal, as there are reasonable grounds to believe that he will not operate his business in accordance with the law; that the carrying on of his business has resulted, or will result, in a breach of this chapter or any other law; and that Mr. Mekheal's operation of his business has infringed or would infringe on the rights of the public, and has or would endanger the health and safety of the public.

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19. There is an historical criminal record which raises public safety concerns for MLS.
20. There is a long history of illegal driving which include 98 convictions under the *Trespass to Property Act* on airport property. While the Applicant feels the law is unfair, he still contravened the law. The Applicant has a further 28 charges under the *Government Property Act*.
21. There are thousands of dollars (\$6,700 approximately) in outstanding fines dating back to 1999.
22. There is evidence showing longstanding contempt for the Vehicle-For-Hire driving scheme. The Applicant has been carrying on an illegal business for decades. While the applicant stated that he has not gone to the airport for the past 5 months, the records show otherwise.
23. There is no evidence to show that many of the outstanding fines are still before the courts.
24. With respect to the right to making a livelihood, the Applicant is still driving and has many clients for years. The Applicant has a licence to drive in Brampton and appears to continue to make drop offs at the airport.
25. The main reason the Applicant wants a licence is to drive in the City of Toronto so he can drive Uber but this licence won't permit this. The Applicant drives Uber outside the City of Toronto.
26. Therefore, he is not entitled to a licence at this time.

ANALYSIS

27. This is the Applicant's first appearance before the Tribunal.
28. The Tribunal is satisfied that the criminal convictions on file are (in the past) dated and not a factor in making the following decision.
29. The Tribunal accepts MLS's submission that based on the Applicant's past conduct, he would not carry on his business in accordance with the law and with honesty and integrity and the panel is concerned that carrying on his business will result in a breach of the chapter or other laws.
30. Mr. Mekheal has had significant issues of past noncompliance with the law. There is ample evidence before the Tribunal that shows a longstanding history of illegal driving spanning over 27 years and resulting in 98 charges, convictions and unpaid fines under the *Trespass to Property Act*. In fact, 17 charges were laid in 2019.
31. In addition, there are also 28 other dated charges, convictions and unpaid fines

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under the *Government Property Traffic Act*.

32. With respect to making a livelihood, the Tribunal is satisfied that Mr. Mekheal can continue to make a living as a Taxi driver in City of Brampton and as an Uber driver North of Toronto.

DECISION

For the reasons set out above:

33. The Tribunal denied Mr. Mekheal's application for Vehicle-for-Hire Driver's Licence for the reasons set out above.

Originally Signed

Mary Lee, Panel Chair
Members, Edgar-André Montigny and Anu Bakshi concurring.

Reference: Minute No. 204/19

Date Signed: August 31, 2020