

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

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**Date of**

**Hearing:** December 14, 2023

**Panel:** Verlyn Francis, Panel Chair;  
Marc Bhalla, Member

**Re:** Salem Abdulrahman Mohammed (Report No.7872)  
Holder of Toronto Taxicab Owner's Licence No. V02-3365150; Taxicab  
Plate No. A0754

**Counsel for Municipal Licensing and Standards:** Graham Thomson

**Counsel for Applicant:** Unrepresented

### **INTRODUCTION**

Salem Abdulrahman Mohammed was first issued a Toronto Taxicab Owner's Licence by the City of Toronto in January 2004. He is the holder of a taxicab licence and plate.

Mr. Mohammed is before the Toronto Licensing Tribunal to determine whether his taxicab licence should be renewed, suspended, or revoked in accordance with Chapter 546-51 A of the Toronto Municipal Code (the Code) because the vehicle he uses as a taxicab is more than seven model years old and does not fall within the amendment made by Toronto City Council (Council).

### **CITY'S EVIDENCE**

The only witness called by Municipal Licensing and Standards (MLS) was Jamil Elannan, supervisor with the Business Licensing Unit of MLS, who testified that, for the past seven years, his job involves the renewal of business licences and bringing matters before the Tribunal.

Referring to Report 7872 which was filed as Exhibit 1, Mr. Elannan testified that Mr. Mohammed's taxicab licence and plate are attached to a 2014 model year Toyota Camry which was originally registered with MLS in 2014 and reregistered in 2021. As a result, Mr. Mohammed is in violation of §546-51 A of the Code which does not permit a vehicle that is more than seven model years old to be used as a taxicab.

During the COVID-19 pandemic, Council passed two by-law amendments to extend on a temporary basis the seven-model-year limit for vehicles operating as taxicabs. By-law 1186-2020 was passed on December 18, 2020 and effective January 1, 2021, allowed for a one-year replacement extension for vehicles operating as taxicabs on January 1, 2021. On July 22, 2022, Council passed a further amendment, By-law 1084-2022, allowing a vehicle in use as a taxicab at July 21, 2022 to continue to be used as such until December

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31, 2023, so long as the vehicle is not more than ten model years old. These amendments applied to taxicabs manufactured in 2015, 2016, 2017 and 2018.

An interpretation Bulletin issued by the city in March 2017 and updated in July 2022 indicates that any vehicle used as a taxicab must be replaced by March 31 of the year following the vehicle's seventh model year. Examples given by the bulletin indicate that vehicles manufactured in 2013, 2014, 2015, and 2016 need to be replaced in 2023 but have until March 31, 2024 to effect the replacement.

Page 3 of the December 5, 2023 update filed in this hearing is a screenshot of a plate update enquiry from the MLS system. It shows the taxicab registration date of Mr. Mohammad's 2014 Toyota Camry Hybrid was originally August 20, 2014 with a replacement date of 2022.

Mr. Mohammed's Ontario driver's licence was suspended in June 2021 due to pending eye surgery. The three-year driver's abstract dated December 11, 2023 shows that on April 23, 2021, his licence was suspended pending receipt of a safety certificate and proof of insurance. As a result, he was not eligible to drive a taxicab in Toronto at that time. On October 19, 2021, he submitted a "Temporarily Not Operation Declaration" to MLS indicating that he had temporarily ceased operation of the taxicab. Mr. Elannan testified that this form of declaration allows MLS to remove the plate from the system so that their clients do not lose their licence for not keeping their renewal fees up to date. Without this declaration, MLS cannot receive licence fees and the system then shows the licence as suspended. To MLS, this declaration meant that the vehicle was no longer operating as a taxicab and, therefore, not showing as suspended. When he was ready to continue operating the vehicle as a taxicab, Mr. Mohammed would have to provide proof of insurance and a safety certificate. During that time, he had to keep paying renewal fees to maintain his licence.

In July 2022 his doctor approved Mr. Mohammed for driving. Mr. Mohammed informed the Ministry to that effect, and his provincial licence was reinstated. He then started the process of reinstating his taxicab licence with MLS by emailing a photograph and police report to MLS on July 20, 2022 and paying his vehicle licence renewal fee in August 2022. It was August 2022 when his vehicle could be put back on the road as a taxicab.

Mr. Elannan testified that if his vehicle was operating as a taxicab on July 21, 2022, Mr. Mohammed was required to replace it by March 31, 2023. However, since his vehicle was not being operated as a taxicab on July 21, 2022, he does not qualify for Council's second extension to March 31, 2024 to replace the 2014 vehicle.

Two safety standard certificates dated August 2023 were submitted but they do not satisfy the requirements of MLS because the vehicle has reached its replacement date and cannot be registered.

In cross-examination, Mr. Elannan testified that the declaration that Mr. Mohammed provided continued his licence but was not applicable to the vehicle because the licence is not attached to the vehicle. This was a measure introduced during COVID because the clients could not attend the MLS office. Prior to that time, clients would have had to take the plates to the MLS office.

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## **LICENSEE'S EVIDENCE**

Mr. Mohammed testified that he is 64 years old, has been married for over 45 years and his wife does not work. He has two children, one 32 and the other 34 years of age, with one child living in his household. He has two people depending on his income because his daughter who lives with him works part-time with the government but she does not help to pay bills or buy groceries for the household. He supports the household financially using his credit card. He has been a taxicab driver since 2004 and has no other source of income. He is the sole income generator in his family.

Mr. Mohammed indicated that when MLS sent the paper to renew his licence, he was not driving because his Ontario driver's licence was suspended from 2021 to 2022. He informed MLS that he was not working and, to make sure his licence was in the system, they charged him a portion of the money. He could not drive until he got his Ontario driver's licence back. He did not work for one-and-a-half years and he had no income. In October 2021, he delivered the temporary not operating document regarding the plate and MLS sent him a form which he filled out and sent back. He was required to temporarily suspend his career as he required laser eye surgery, which occurred in April and May 2022 and he also needed time to recover. In July 2022, he was cleared by his doctor to resume his career and took steps to have his taxicab licence re-instated. In August 2022, Mr. Mohammed paid the renewal fee to complete the reinstatement process.

In October 2021, he was not able to hire anyone to drive his taxicab because he did not have insurance and taxi drivers were not working because of COVID. He also could not submit a safety standards certificate because of his vision but he was not required to because of the declaration he signed. He did not take steps to replace his taxicab because it was too expensive and it takes nine months for a new car to be delivered and he could not afford it.

When his driver's licence was reinstated in June 2022, Mr. Mohammed testified he was not aware that Council was going to extend the time but he immediately started to take steps to get his taxicab licence. Mr. Mohammed explains that delays in the delivery of mail and related administrative slowdowns are also attributable, in part, to the COVID-19 pandemic. In July 2022, he found out that Council had given an extension and he could use the vehicle for a further year. In October 2022 there was a further extension to March 2024. He tried to change the vehicle but it did not work because of his situation. He did not trade in the vehicle because, with the high mileage, no one wants to buy it. He has no other vehicles.

Mr. Mohammed testified that he lives in a three-bedroom, two-bathroom townhouse with a mortgage registered against it that he is making monthly payments on. He has been using his credit cards during his problems but he doesn't have any income. He tried to use his home as security to buy another vehicle but it did not work because he works by himself.

Adel Ferid testified in support of Mr. Mohammed that it took some time to get the licence reinstated because Mr. Mohammed had to receive injections after his eye surgery. Even though the doctor said he could get his licence back from the province, he needed injections for astigmatism and bleeding from the surgery. There was also delays in mail delivery. Mr. Ferid's testimony is that he visited Mr. Mohammed at his home while he was

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recovering. Mr. Ferid read Mr. Mohammed's mail to him and mail dated July would be received 14 days later. As a result, it took time to get things done.

## **SUBMISSIONS**

### **MLS Submissions**

On behalf of MLS, Mr. Thomson admitted that Mr. Mohammed has been forthright and cooperative with MLS in this matter. While MLS understands Mr. Mohammed's frustration, unfortunately, his vehicle was not in use as a taxicab as at July 21, 2022. Therefore, the 2014 Toyota Camry vehicle does not qualify for the extension granted by Council.

MLS submits that neither it nor the Toronto Licensing Tribunal have the authority or discretion to grant a vehicle replacement extension under the by-law amendment passed by Council. Unfortunately, the only resolution that is available to Mr. Mohammed is to replace his 2014 vehicle with a vehicle that complies with §546-51 A.

### **Licensee's Submissions**

In his submission, Mr. Mohammed admits that his vehicle was not operating as a taxicab on July 21, 2022, but he should nonetheless qualify for the extension granted by Council. Mr. Mohammed refers to his financial hardship experienced through lack of income over the period that he could not drive his taxicab, and the current high cost of vehicle as obstacles to his replacing his taxicab. During the time his Ontario driver's licence was suspended because of his eye condition, he was unable to find anyone interested in driving his vehicle as a taxicab during the COVID-19 pandemic. He is also unable to refinance his home to help fund a replacement vehicle.

Mr. Mohammed submits that the spirit of Council's amendment was to extend the replacement time of taxicabs to circumstances such as his, and that the further financial hurdle of requiring a new vehicle after being unable to earn an income as the sole breadwinner of his family would make it practically impossible for him to earn a living.

Mr. Mohammed further submits that he has relied on credit to live during the time he could not work and that while he owns the house in which he lives with his family, financing for a new vehicle would be problematic for him to obtain due to the recent period of time in which he was not able to generate income for his family.

## **DECISION**

The issue before the Tribunal is whether Mr. Mohammed's 2014 Toyota Camry taxicab must be replaced in accordance with §546-51 A of the Code.

Section 546-51 A of the Toronto Municipal Code provides that:

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A vehicle used as taxicab shall be no more than seven model years old. Until December 31, 2023, a vehicle that is in use as a taxicab as at July 21, 2022 may continue to be used and shall be no more than ten years old by year date. Until December 31, 2025, a vehicle that is in use as an accessible taxicab may be up to ten years old by year date. [Amended 2020-12-18 by By-law 1186-202033; 2022-07-22 by By-law 1084-2022]

In the preamble to both By-law 1186-2020 and Bylaw 1084-2022 amending Chapter 546-51 A, Council set out that two important matters that it took into consideration in making the amendments:

1. ... the regulation of transportation services to be important in promoting public safety, consumer protection, and the economic, social, and environmental well-being of the City; and
2. ... the prudent and expedient measures to mitigate some of the impacts that the COVID-19 pandemic has had on the vehicle for hire industry.

In other words, these were tumultuous times and the City was taking steps to mitigate the damage of a pandemic.

Toronto Interpretation Bulletin No. IB-2017-1, issued March 2017 and updated July 2022, provides, in part, as follows:

In July 2022, City Council adopted bylaw amendment that allows vehicles currently used as Accessible Vehicles to be up to ten model years old until December 31, 2025. The change came into effect on July 21, 2022. This means that accessible taxicabs manufactured in 2015, 2016, 2017 and 2018 will need to be replaced in 2025. A vehicle manufactured in 2013 must be replaced in 2023 and a vehicle manufactured in 2014 must be replaced in 2024.

On the final page of Bulletin, it indicated that:

Taxicab and sedan limousine vehicles manufactured in 2013, 2014, 2015, and 2016 need to be replaced in 2023, but have until March 31, 2024.

The uncontroverted evidence is that, due to his eye problems, Mr. Mohammed's 2014 Toyota Camry was not operating as a taxicab on October 19, 2021 when he provided MLS with the Temporarily Not Operating Declaration. He was not able to contract another taxicab driver to drive his vehicle because of the pandemic.

The driver record dated December 11, 2023, shows that Mr. Mohammed's Ontario driver's licence was reinstated in June 22, 2022, and the evidence shows that he received his vehicle-for-hire renewal notice on 11 July 2022 indicating what was required for him to operate his taxicab. He had to produce a police record and digital photo. He was also required to produce a safety certificate and insurance for his vehicle. Mr. Mohammed's uncontested evidence is that he immediately applied for the required documentation but, due to the restrictions on gathering during the pandemic, it took a longer time to receive the documentation. It was not until August 2022 that he had all the documentation and paid his licence renewal fee to MLS. He produced a Safety Standards Certificate from the

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Ministry of Transportation dated August 15, 2022 and the MLS registration was August 19, 2022. In short, Mr. Mohammed was just 22 days outside the date of the exemption for vehicles operating as taxicabs on July 21, 2022.

There is no doubt that the delays with processing documents during the pandemic worked against Mr. Mohammed. The Tribunal appreciates the unfortunate timing that placed Mr. Mohammed in the predicament he faces, and we completely understand his genuine belief that he should be afforded Council's extension to allow him to continue to operate his 2014 model year Toyota Camry until March 31, 2024.

Regrettably, By-law 1084-2022 provides July 21, 2022 as the specific date on which a vehicle must be operating as a taxicab in order to qualify for the vehicle replacement extension.

In arriving at a decision, the Tribunal has carefully considered all the evidence before it, along with the submissions of MLS and the Licensee. It was also guided by its mandate set out in part in the Toronto Municipal Code § 545-3.B(3)(c) to:

Have regard for the need to balance the protection of the public interest with the need for licensees to make a livelihood.

According to the framing of By-Law 1084-2022 which amends §546-51 A, to receive the benefit of the extension, a vehicle must have been in use as a taxicab as at July 21, 2022, and shall be no more than ten years old by year date. While Mr. Mohammed offers compelling reasons for why his vehicle was not operating as a taxicab on July 21, 2022, the Tribunal finds that a statutory interpretation of the by-law amendments does not give the Tribunal the discretion to grant an extension of the time within which a taxicab has to be replaced.

By his own admission, Mr. Mohammed's 2014 Toyota Camry vehicle was not being used as a taxicab "as at July 21, 2022". It is, therefore, not entitled to the extension of time for replacement. Since the vehicle is more than seven model years old, it cannot be used as a Toronto taxicab. In accordance with §546-4 A (4), the Tribunal therefore finds that there are reasonable grounds to believe that the premises, equipment, or facilities in respect of which the licence is required have not been complied, or will not comply, with the provisions of this chapter or any other law.

Having considered all the evidence and submissions in this matter, pursuant to §546-9 C (2), the Tribunal orders that Toronto Taxicab Owner's Licence No. V02-3365150, Taxicab Plate No. A0754 be suspended for failure to comply with §546-51 A of the Toronto Municipal Code.

*Verlyn Francis*

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Verlyn Francis, Panel Chair  
Panel Member: Marc Bhalla, concurring

Reference: Minute No. 182/23

**Date Signed: January 18, 2024**