



Minutes: October 30, 2023

Toronto Licensing Tribunal Business Meeting No. 38 (In Camera)

Meeting Date: Friday June 30, 2023, 9:30 a.m. to 4:00 p.m.

Location: Electronic via City of Toronto Web Conferencing

Email: tlt@toronto.ca

Chair: Mary Lee

Contact: Pauline Chandarpaul

Phone: 416-392-3072

Toronto Licensing Tribunal Panel Members

Mary Lee (Chair)

Verlyn Francis

Emily Cole

Joanne Lau

Peter Harris

Marc Bhalla

Edgar Montigny

Attendees:

Pauline Chandarpaul - Supervisor, Tribunal Operations, Court Services (Administrator)

Ann Harricharan, Steven Debono, Phillip Cheung – Court Services staff, Toronto Licensing Tribunal

Brian Halloran, Acting Manager, Court Operations, Court Services

Veronica Edwards, Senior Manager, Court and Tribunal Operations, Court Services

Marcia Stoltz, Manager, Business Licensing and Regulatory Services, Municipal Licensing and Standards

Fiona Chapman, Director, Business Licensing and Regulatory Services Infrastructure and Development Services, Municipal Licensing and Standards

Michelle Wright, Deputy Director, Legal Services

Chair Mary Lee - Confirmed Quorum and welcomed everyone.

Indigenous Land and African Ancestral acknowledgements read.

Introduction of all Meeting Participants.

Declaration of Interest under the *Municipal Conflict of Interest Act*.

No declarations of conflict.

Confirmation of Minutes of Meetings – February 28, 2023

Motion: Accepting the Minutes of Business Meeting #36 (February 28, 2023)

- **Motion forwarded by Member Harris, seconded by Member Lee**
- **All Members voted to adopt**

Motion carried and Minutes of the February 28, 2023 Business Meeting Adopted.

38.1 – CHAIR'S UPDATE

Welcome and Introductions

Introduction of Members and Participants

Summary

Toronto Licensing Tribunal – Chair's Update and Chair's Annual Report for 2022

Hearing Scheduling for 2024:

- Matters requiring a full panel review will be adjourned and scheduled before a 3-member panel
- At time of hearing, TLT member will solicit hearing dates with parties

Single Member Panel

The Chair advised Single Member Panels are going well. For Q1 2024, it has been decided to keep two member panels for purposes of training, until further notice. To date, there have not been fully contested Hearings. We will continue discussions regarding training for new members and onboarding.

2023 Annual Report

The Chair advised the report typically goes before committee in April of the following year and will be distributed to the members prior for review.

38.3 – UPDATE: MLS SUBMISSION

Summary

Municipal Licensing and Standards to provide any Licencing and Enforcement updates.

Vehicle-For-Hire and Private Transit Company Updates

MLS advised that City Council recently passed a cap for Vehicle-For-Hire and Private Transit Company (PTC) Licences. City Council also extended the amount of time taxicabs need to be replaced for one more year. We do not expect any Vehicle Replacement matters in the spring of 2024 and the bulk will be put to the end of next year and 2025.

A question was posed regarding the process for Vehicle Replacements. There will be a lot coming up this year that normally would not be in compliance with the code. However, will that no longer be the case?

MLS advised the vehicles that were supposed to be replaced 2022 were given a three month grace period until March of 2023. Courtesy letters were mailed to the correspondent, at which time a report will follow if not in compliance. The current reports before the Tribunal will go forward because the extension does not apply, and the vehicles that are due to be replaced this year are not impacted.

Tow Truck Industry Update

MLS advised effective January 1 of 2024, the Province is taking over the licensing of drivers, owners, operations and some garage licences. New applications can still be filed, and the Tribunal will continue to receive reports. MLS will no longer issue licences and will bring forth applicable withdrawals in the new year.

MLS advised that Tow Trucks consist of 40% of the reports. This, coupled with licensing caps and no Vehicle Replacements, will result in a decline in matters. Vehicle Replacements must take place every 7 years, and the entire taxi fleet is due to be replaced in 3-4 years. Therefore, we predict there will be 4 years of Vehicle Replacement reports in 2025.

Bar and Restaurant Reports

MLS advised there is a report before City Council that will change the way Bars and Restaurants are licenced. It will modernize how events and live music are licenced, and some will be removed from the bylaw. There will be a more detailed review in the new year.

MLS advised there will be a full review of Chapter 545. All licences will be looked at, along with multi-year options and a risk-based approach.

Short Term Rentals

MLS advised public consultations are currently being held and they hope to put forward a report on implementations and proposed amendments in early 2024 to the Planning and Housing Committee.

TLT Reports

MLS advised they have received the request regarding the Tribunal's recommendation for report submissions, but they had to put it off to the new year. They have been inundated with the City Council decision regarding the Private Transportation Company (PTC) Licence caps, which is a priority.

The Chair suggested MLS provide bullet points on all of these items for the next Business Meeting and to work with Court Services as needed.

A question was posed regarding what is the current Vehicle-For-Hire (VFH)/PTC Cap?

MLS advised as of the date the cap was put in place there are 6622 VFH Licences, which includes those currently before the Tribunal. Applications were stopped on October 13, 2023. City Council did not consult with MLS on this cap.

For PTC's, there are around 55 000 active drivers and about 85 000 active licences. The cap is automated, so MLS will have to implement a rolling cap, which means the system needs to be reprogrammed. MLS has never brought the PTC's before the tribunal because they have been able to manage them internally with the screening criteria.

A question was posed regarding how many licences there were before the cap? What was the reduction for Vehicle-For-Hire now that the cap is imposed?

MLS advised they receive approximately 3000 PTC applications a month, but not sure about VFH. When Uber came into effect in 2016, the mandatory training course was removed for taxi and limo drivers. In 2017, there were 16 000 VFH Licences. Currently, it has decreased to 6622. Before Uber, there were an average of 10-11 thousand VFH Licences.

Tow Truck Licences

A question was posed regarding Tow Trucks, are there any transition provisions in place to ensure the public remains protected? Or is there an interim period of no regulations? And has there been any discussion between MLS and the Province?

MLS advised that the Province has started opening applications for licences in July of 2023. There are no fees yet, but this should start in the new year. The understanding is that the Province is working on a transition process.

38.2 – SUPERVISOR'S UPDATE

Summary

Toronto Licensing Tribunal – Court Services Supervisor and Manager updates on administrative matters.

M365 updates and Emails

Website content

Records Retention and Records Classification

East York Civic Centre Office Space

The Supervisor advised there is open WiFi for the office. The Council Chambers were not affected by the renovations. The TLT office entry door is still being worked on to ensure AODA compliance. The current move back date is early December. Office space for the Members is available for work related purposes upon request.

Member Email Accounts

The Supervisor advised Member Email Accounts are assigned by the City and all Email Accounts currently being migrated to the Cloud. They will look very different and there will be challenges, so please reach out if any assistance is required. Staff will ensure Hearing materials will be sent to Members' Accounts, while ensuring Acceptable Use Policies are adhered to.

Toronto Licensing Tribunal Website

The Supervisor advised the content is public information, and there is also a Governance Committee for the website compliance. We are happy to take feedback regarding information available to the public and work with the members regarding updates to the content. New Members should reference the website for previous decisions.

Records Retention

The Supervisor advised she is working on version 5 of records classification regarding documentation, classes and types of documents retained as Tribunal Records. It is a draft plan that will be sent to the members to review and to give feedback, when appropriate. There will be a scheduled meeting to go over protocols and procedures for retention. Legal Services and Records Management form part of the working committee.

A question was posed regarding any room or filing cabinet that have hard copies of old decisions? It is difficult to access contested decisions on the website.

The Supervisor advised all records are electronic, but hard copies can be provided. On site the retention record is current year plus two years previously, and older records are sent to Archives. All records can be pulled from off site, as requested. All matters that appear before the Tribunal are contested matters and the documents are available.

A question was posed regarding any kind of document containing a theoretical framework as to how decisions are made?

The Supervisor advised there are some case file documents available that may assist, I will defer to Legal Services and the Chair.

The Chair advised since COVID things have changed. We are primarily electronic, so documents are easy to print. In 2022 there were two fully contested Hearings and there hasn't been any in 2023. There were approximately twelve in 2021.

Additionally, there were Proposed Resolutions, adjournments and backlogs in the courts that impacted Hearing disposition. There are copies available at 850 Coxwell.

The Supervisor advised older decisions have been sent to Archives. Recent decisions have been retained, based on retention schedules along with Summaries of Decisions. All TLT case file records are electronic and can be made available upon request.

Member Harris asked if we are losing the historic legacy by not having hard copies of records? How can there be a site when we don't have them? Dealing with matters with criminal records, but sometimes the Tribunal doesn't deny the licence even with the criminal records, so those records are useful to have.

The Chair advised those records are accessible online.

Member Harris stated those records are difficult to retrieve.

The Supervisor stated they will work with him to support specific requests.

The Chair advised they will make a submission to MLS to make documents more accessible. MLS will need time to review it. The Chair and the Supervisor will work with MLS and determine the next steps. This is not for the Members, but more for the clients to properly access the documents through their smart devices.

The Chair posed a question to Legal Services regarding a recent hearing where a licensee was represented by a Business Corporation and not paralegals or lawyers. MLS contested that it did not fall under the Law Society Act that a Business Corporation can represent the applicants. There was a consent adjournment

and no issue at that time. This is the first time this has come up, but in case it happens again, is it necessary that a client's representative be a lawyer or paralegal?

Legal Services advised anyone providing legal services representation must be licenced. There is a list of exemptions, and the representative does not need to be a lawyer or paralegal, but what the Chair described does not fall into any of the exemptions.

Member Bhalla added that the Director of the Corporation sent a letter authorizing the agent to act on their behalf, but the letter of authorization did not satisfy MLS. The agent was forthcoming that they were not a lawyer or paralegal. It was a business consulting company, therefore some leeway may be given with a corporate entity.

Legal Services advised in this context an employee of the corporation can make submissions on behalf of the corporation. A letter from a corporation saying someone from a different corporation can represent does not pass the test. It is not an exemption that applies.

The Chair added the benefit of prior notice to the Corporation would be appreciated so there are no surprises and give them an opportunity to obtain proper legal representation and respond to MLS's submission.

The Supervisor suggested that a client's representative should confirm they are licenced, and this information should be included in our correspondence. Can that information be requested prior to the exchanging of documents?

The Chair advised this is the first time MLS has challenged this.

Member Bhalla added there could be some added language put on the website regarding preparing for a hearing and the mention of a solicitor or paralegal.

Morning Break

38.4 – MEMBER TRAINING (IN-CAMERA)

Summary

Training and Development by way of interactive discussions between the Chair, Toronto Licensing Tribunal, and the Members.

Motion: That October 30, 2023, Business Meeting of the Toronto Licensing Tribunal move into a closed session to allow for an education and training session of the panel Members.

- **Motion moved by Chair, Member Lee, seconded by Members Montigny, Francis, Cole, Lau, Bhalla and Harris**

Motion carried: The October 30, 2023, Business Meeting of the Toronto Licensing Tribunal move into a closed session.

Motion: That October 30, 2023, Business Meeting of the Toronto Licensing Tribunal move into an open session.

- **Motion moved by Member Lee, seconded by Members Montigny, Francis, Cole, Lau, Bhalla and Harris**

Motion carried: That the October 30, 2023, Business Meeting of the Toronto Licensing Tribunal moved into a public session.

38.5 – OTHER BUSINESS AND CLOSING REMARKS

The Chair advised at the next Business Meeting, one of the items will be the review of Rules 5 to 8 of the Tribunal Rules of Procedure.

The Chair advised the next Business Meeting will be scheduled for the end of February or early March of 2024.

The Supervisor confirmed the notice of attendance for the SOAR 2023 Conference for Members Harris, Lau and Cole will be sent to the participants.

Adjournment

Motion: To Adjourn Toronto Licensing Tribunal Business Meeting No. 38 (October 30, 2023).

Motion moved by Chair, Member Lee, seconded by Member Harris

Meeting concluded at 1:12 p.m.