

CONWAY

Litigation/Litige

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VIA EMAIL (gkotsifas@london.ca and okatolyk@london.ca)

September 5, 2018

City of London
300 Dufferin Avenue
London, Ontario N6A 4L9

Attention: Orest Katolyk, Chief Municipal Law Enforcement Officer
George Kotsifas, Managing Director, Development & Compliance Services and
Chief Building Official

Dear Sirs:

RE: POTENTIAL AMENDMENTS TO VEHICLE FOR HIRE BY-LAW
OUR MATTER ID: 5284-001

We have been retained by Hasan Savehilaghi and Yellow London Taxi Inc. to investigate potential claims stemming from the operation of Uber in the City of London since September 2015 and the amendment of the Taxicab and Limousine Licensing By-law in April 2017 (now the "Vehicle for Hire By-law").

We understand that, on July 16, 2018, the Community and Protective Services Committee directed Civic Administration to hold one or more public participation meetings to receive comments on potential further amendments to the Vehicle for Hire By-law. These potential amendments include removing the limit on the number of regular and accessible taxi plates. We understand that a public participation meeting has been scheduled for September 11, 2018.

We are writing to provide our initial comments on the proposal to eliminate limits on the numbers of taxi plates. We may request the opportunity to make additional comments, in writing, in person, or at the upcoming public participation meeting.

In our view, the removal of limits on the number of plates gives rise to two legal concerns. We will briefly summarize each of these concerns.

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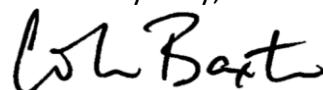
First, removing limits on the number of taxicabs will very likely cause disproportionate harm to minority groups in terms of race, colour, language, and ethnicity, contrary to the City's obligations under section 15 of the *Charter of Rights and Freedoms* and Part I of Ontario's *Human Rights Code*. We understand that minority groups overwhelmingly make up taxi owners and taxi drivers in London. These groups will therefore disproportionately experience the injury caused by an unlimited number of taxis, which will likely include lower driver incomes and the elimination of any remaining value in taxi plates. The *Charter* and the *Human Rights Code* prohibits governments, including municipalities, from enacting measures which cause such disproportionate and unnecessary harm to members of minority groups and which worsen their already vulnerable status in Canadian society. In a certification motion for a class action against the City of Ottawa arising from similar circumstances, the Superior Court has recognized that changes to a by-law which disproportionately harm members of minority groups may violate the *Charter* and the *Human Rights Code* (for the reasons of the Court on this issue, see paragraphs 37 to 48 of the decision in [Metro Taxi Ltd. v. City of Ottawa](#), 2018 ONSC 509).

Based on the staff report dated July 16, 2018 and the reports by City staff leading up to the 2017 amendments to the by-law, it appears that the City of London has carried out no analysis to assess the impact of past or proposed amendments on racialized communities in London. Before amending the by-law further, we expect (and, in our view, the law requires) the City to assess the social and economic impact of the amendments on minority communities, and to take steps to avoid exacerbating the inequality already experienced by those communities. If City staff does not possess the necessary expertise to conduct a social and economic analysis of the changes to the by-law, the City should engage persons who do.

Second, removing plate limits may also constitute a *de facto* taking of the property of taxi plate owners without compensation. Over many years, taxi owners have participated in and contributed to a stable regime for the regulation of the taxi industry. Within this regime, both taxi owners and the City have treated plates as a type of property which belongs to taxi owners and which has a value. The City has acted consistently with the property rights of plate owners by facilitating, in its by-law, the transfer of plates and by charging significant fees for the renewal or transfer of plates. Allowing City staff to issue new plates without limit would effectively eliminate the value of the rights of plate owners acquired over many years. This would be tantamount to revoking the plates. There does not appear to be any authority in the *Municipal Act, 2001* for the City to take such steps without compensation to plate owners.

We respectfully request that the Committee and City Council take these comments into consideration when reviewing potential changes to the Vehicle for Hire By-law. If you have any questions, please do not hesitate to contact me.

Yours very truly,



Colin Baxter