

RECORD OF PROCEEDING

LICENSING APPEAL COMMITTEE

November 24, 2011 – 1:00 p.m.

Hearings Room
London City Hall

PRESENT

Councillor D.G. Henderson, Chair
Councillor S.E. White, Vice Chair
Councillor P. Van Meerbergen, Vice Chair
Councillor S. Orser, Tribunal Member
B. Westlake-Power, Acting Committee Secretary
G. Kotsifas, Director of Building Controls
J. Smout, Solicitor II
C. Saunders, City Clerk
D. Warren, Licensing Enforcement
S. Bielawski, Appellant

CALL TO ORDER

The Secretary called the Hearing to order at 1:06 p.m.

ORGANIZATIONAL MATTERS

The Licensing Appeal Committee elected Councillor D.G. Henderson as Committee Chair, and Councillors S.E. White and P. Van Meerbergen as Vice Chairs.

DECLARATIONS OF PECUNIARY INTEREST

None

COMMITTEE ORIENTATION

J. Smout, Solicitor, provided a brief orientation to the Licensing Appeal Committee (LAC), with respect to the role of the LAC, the order of proceedings, deliberations and decision making, in accordance with the LAC Terms of Reference and Rules of Procedure.

HEARINGS

Hearing

Hearing before the Licensing Appeal Committee (LAC) with respect to the removal of Slawomir Bielawski from the Cab Priority List.

1. Preliminary and Interlocutory Matters:

The Chair introduced the Committee Members and provided a brief overview and explanation of the Hearing process.

G. Kotsifas, Director of Building Controls and D. Warren, Licensing Enforcement, appeared on behalf of the City of London. Slawomir Bielawski appeared on his own behalf.

The parties advised that they were ready to proceed, and no preliminary matters to be addressed.

2. Summary of the Evidence Received by the Licensing Appeal Committee:

G. Kotsifas, entered the following attached documents as evidence at the hearing.

Exhibit #1 – the three page 2008 Cab or Limousine Driver Licence Application of Slawomir Bielawski.

Exhibit #2 – the three page 2009 Cab or Limousine Driver Licence Application of Slawomir Bielawski.

Exhibit #3 – the registered letter (and documentation) requesting a 2009-2010 Cab Priority List Declaration sent to Slawomir Bielawski.

Exhibit #4 – the one page 2010 Cab of Limousine Driver Licence Application of Slawomir Bielawski.

Exhibit #5 – the registered letter, Notice of Non Compliance sent to Slawomir Bielawski by the City of London.

Exhibit #6 – the letter of appeal to the City Clerk, dated November 17, 2010, filed by Slawomir Bielawski.

Exhibit #7 – the City of London, Taxi Limo Priority list dated August 26, 2009.

Exhibit #8 – City of London Taxicab & Limousine Licensing By-law, L-126-256, Consolidated June 14, 2010.

G. Kotsifas, under oath, provided the following evidence to the Licensing Appeal Committee:

- The purpose of the hearing was to hear the appeal of S. Bielawski related to the proposed removal of his name from the Cab Priority List, as he had not complied with section 13.5 of By-law L-126-256, as amended, of the City of London to maintain status on the list.
- The requirements to maintain status on the Cab Priority List are outlined in section 13.5 of By-law L-126-256. Part (a) of section 13.5 states, “continues to drive a Cab for an average of at least 35 hours a week for 40 weeks each year or he works as a Dispatcher, a Broker general manager...and has filed a Statutory Declaration with the Licensing Manager confirming this;”. The definition of a “cab” in By-law L-126-256 as “a motor vehicle that is available for or providing Conveyance Services, but does not include a Limousine or Group Transportation Vehicle.”
- The by-law requires driving a cab 35 hours a week for 40 weeks of the year to remain on the Cab Priority List; Mr. Bielawski is not driving a cab, but a limousine.
- Mr. Bielawski did not drive cab the required number of hours to stay on the Cab Priority List.
- Mr. Bielawski did not submit the required Statutory Declaration required to stay on the Cab Priority List.
- Mr. Bielawski’s application indicates he is driving a limousine, not a cab.
- Mr. Bielawski was aware of the requirements to remain on the Cab Priority List, as he had previously made the necessary submissions.

In response to questions posed by the Appellant Mr. Kotsifas provided the following evidence:

- Mr. Bielawski asked if his medical letter had been seen.

The Licensing Appeal Committee (LAC) asked Mr. Bielawski about the contents of the letter, and it was the opinion of the LAC that personal matters may be disclosed, and having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public.

Councillor S. Orser moved, seconded by Councillor P. Van Meerbergen, that the Committee move to closed session, pursuant to the City of London Licensing Appeal Committee Rules of Procedure item #32 (b), which states:

- “(b) Financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearing be open to the public.”

The Committee moved into closed session at 2:20 p.m., until 3:46 p.m. See Confidential Record of Proceeding.

The Licensing Appeal Committee presented the following recommendation:

RECOMMENDATION:

The Licensing Appeal Committee, having considered all the evidence presented, and pursuant to section 13.5 of the Taxicab & Limousine Licensing By-law, recommends the following to City Council for its consideration as it relates to this Hearing:

That the removal of Slawomir Bielawski from the Cab Priority List **BE UPHOLD** for the following reasons:

- (a) the appellant failed to meet the requirements of section 13.5 (a) of the Taxicab & Limousine Licensing By-law to maintain status on the Cab Priority List;
- (b) it has been made clear that Mr. Bielawski has been driving limousine, is currently driving limousine and wants to continue to drive limousine;
- (c) Mr. Bielawski stated under his own signature (Exhibit #4 document dated October 27, 2010) that he is a limousine driver; and,
- (d) ample notice of the requirements to maintain status on the Cab Priority List was provided by the City.

OTHER BUSINESS

None

ADJOURNMENT

The Licensing Appeal Committee adjourned at 3:48 p.m.