



# COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE

## AGENDA

April 6, 2017 – Churchill Building

9:30 am  
12:00 noon

Call to Order  
Adjournment

### MEMBERS

ITEM		ACTION
<b>1.</b>	<b>CALL TO ORDER AND RELATED BUSINESS</b>	
1.1	Call to Order	
	<i>ELECTION OF CHAIR</i>	
1.2	<a href="#">Adoption of Agenda</a>	
1.3	<a href="#">Adoption of Minutes</a>	
	<ul style="list-style-type: none"> <li>March 2, 2017 Community Standards and Licence Appeal Committee meeting minutes.</li> </ul>	
<b>2.</b>	<b>EXPLANATION OF APPEAL HEARING PROCESS</b>	
<b>3.</b>	<b>COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS</b>	
3.1	<a href="#">Appeal of Order - K.B., 7916 - 117 Avenue NW, Edmonton, AB, Order to Pursuant to Section 546(1)(c) of the Municipal Government Act.</a>	
3.2	<a href="#">Appeal of Decision - A.P. - Refusal to issue a City of Edmonton Driver's Licence under Section 42 of the Vehicle for Hire Bylaw.</a>	
<b>4.</b>	<b><a href="#">ADJOURNMENT</a></b>	

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# COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

## MINUTES

March 2, 2017 – Churchill Building

### PRESENT

T. Caterina, B. Anderson, M. Nickel

### ALSO IN ATTENDANCE

C. Hammett, Office of the City Clerk  
 C. Ashmore, Law Branch  
 S. Neider, Office of the City Clerk  
 I. Russell, Office of the City Clerk

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### DECISION SUMMARY

ITEM		DECISION
1.	<b>CALL TO ORDER AND RELATED BUSINESS</b>	

**1.1 Call to Order**

T. Caterina called the meeting to order at 9:35 a.m.

**1.2 Adoption of Agenda**

**Moved M. Nickel - B. Anderson:**

That the March 2, 2017 Agenda be adopted.

**In Favour:**

**Carried**

T. Caterina, B. Anderson, M. Nickel

**1.3 Adoption of Minutes**

**Moved M. Nickel - B. Anderson:**

That the January 26, 2017 and the February 2, 2017 Community Standards and Licence Appeal Committee meeting minutes be adopted.

**In Favour:**

**Carried**

T. Caterina, B. Anderson, M. Nickel

**2. EXPLANATION OF APPEAL HEARING PROCESS**

T. Caterina introduced the members of the Committee, explained the hearing process and asked if anyone objected to any member of the Community Standards and Licence Appeal Committee hearing the appeals. No one objected.

**3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS**

**3.1 Appeal of Order - M.B., 11512 - 93 Street NW, Edmonton, AB, Order pursuant to Section 545(1) of the *Municipal Government Act***

The Committee was advised that Administration has withdrawn the Order.

**3.2 Appeal of Order - G.S.G., Refusal to issue a City of Edmonton Driver's Licence, pursuant to Section 42 of the *Vehicle for Hire Bylaw***

The appellant, Mr. A. P. was represented by Mr. Z. Filipovic, Student at Law, VLG Lawyers, who made a presentation and answered the Committee's questions.

Mr. M. Chong, Sustainable Development, made a

presentation and answered the Committee's questions.

Mr. C. Ashmore answered the committee's questions.

The Committee met in private at 10:05 a.m., Pursuant to Section 20 of the Freedom of Information and Protection of Privacy Act.

The Committee met in public 10:12 a.m.

The Committee broke to allow the parties to discuss the potential hearing date and the disclosure timelines involved.

All parties agreed to the hearing being scheduled on April 6, 2017.

**Moved B. Anderson - M. Nickel:**

The Committee assumes jurisdiction and schedules the hearing for April 6, 2017.	Sustainable Development
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**In Favour:**

**Carried**

T. Caterina, B. Anderson, M. Nickel

**4. ADJOURNMENT**

The meeting was adjourned at 10:24 a.m.

\_\_\_\_\_  
Chair

\_\_\_\_\_  
City Clerk



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*Community  
Standards &  
Licence Appeal  
Committee*

10019 – 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-5026 F: 780-496-8199  
[cslac@edmonton.ca](mailto:cslac@edmonton.ca)  
[edmontoncslac.ca](http://edmontoncslac.ca)

## **Decision of the Committee**

### **Appeal of Order 240728009-001; 7916 – 117 Avenue NW, Edmonton Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*.**

**Hearing Date:** April 6, 2017

**Appellant:**

#### **I. ISSUE**

Whether an extension of time should be granted to comply with the Order issued by the City of Edmonton.

#### **II. APPEARANCES AND EVIDENCE**

In dealing with the Appeal of Order 240728009-001, the Community Standards and Licence Appeal Committee (the Committee) heard from:

Appellant:

Respondent: Mr. T. Courtoreille, Citizen Services, Community Standards Branch

The Committee viewed two sets of photographs of the subject property taken on February 3, 2017 and on April 5, 2017.

#### **III. SUMMARY OF APPELLANT'S POSITION**

Mr. K. B confirmed he is the owner of the subject property. The tires in the yard belong to a friend who occasionally sells them.

Mr. B was fined a few years ago for having tires in his yard but the bylaw officer he dealt with at that time advised him the tires could remain as long as they were behind a fence and not visible. He could not recall the name of the officer.

When he received this Order in February, 2017, he called the officer who had issued it to request an extension of time since it was winter. The officer refused this request, stating that the property has been a problem in the past.

Mr. B has received some resistance from his friend who doesn't want to move all of the tires at once and wants to sort them.

He acknowledged that this is a residential neighbourhood and that the tires need to be cleaned up; he just needs some additional time. He felt an additional three weeks would be sufficient.

### **SUMMARY OF RESPONDENT'S POSITION**

The area officer was doing proactive enforcement in the area on February 3, 2017, when she noticed several tires at the rear portion of this property in plain view of the surrounding community. Closer inspection revealed a significantly large amount of tires in the backyard that could be seen both over the fence and through the fence slats.

Due to the severity of the nuisance condition the Officer issued a MGA 546 Order for an untidy and unsightly property condition detrimental to the surrounding community as per Section 546(0.1)(b)(ii) of the *Municipal Government Act*.

Two sets of photographs taken on February 3, 2017, and on April 5, 2017, were distributed to the Respondent, Members of the Committee and the Office of the City Clerk.

This property, under the Appellant's ownership, has had 22 previous infractions resulting in the issuance of five Municipal Government Act orders, several tickets and several warning notices.

### **IV. REBUTTAL**

The Appellant agrees the property is unsightly and needs to be cleaned up.

The Respondent stated this is a fairly significant nuisance condition. In addition there are likely zoning and development permit and home based business license issues. No concerns regarding fire have been brought to Mr Courtoreille's attention but he does believe a safety concern exists.

Given the severity of the nuisance condition and that it is in plain view of a dense residential area Mr. Courtoreille requests that no time extension be granted.

V. DECISION

<p>The Committee upholds the order.</p> <p>You are therefore ordered to:</p> <p>Remove all tires, wood, loose litter and debris and other assorted materials from the entire property and take any actions or remove any other items that are contributing to the unsightly condition of the property.</p>	<p>Citizen Services Dept.</p> <p><b>Due Date:</b> February 20, 2017</p>
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VI. REASONS

Mr. B does not dispute that his yard is in an unsightly condition and that it needs to be cleaned up. He is asking for additional time to do so and his main reason for the request appears to be that the items within his yard are not owned by him, but are owned by a friend that is difficult to deal with.

From the perspective of the Committee, the fact that these items are owned by his friend is not relevant. Mr. B has the obligation to maintain his yard in a fashion that is not detrimental to the neighborhood, and he will need to deal with whatever issues he has with his friend. From reviewing the pictures, the Committee is very concerned with the condition of this yard, and it is clearly unsightly to the extent that it would affect his neighbours' enjoyment of their own property. In fact, based on the photographs of the yard, the Committee is concerned that the condition of the yard may be a safety concern.

The order was issued in early February and this hearing took place in early April. Pursuant to Section 548 of the *Municipal Government Act* RSA 2000 Chap M-26, there will be additional time where no enforcement can take place to see whether or not this decision is appealed to the Court of Queen's Bench. This means that Mr. B will have had approximately three months to remedy the unsightly condition of his yard. In these circumstances, that is more than adequate time to clean up his yard.

As such, the Committee confirms the original order.



Councillor M. Nickel

APR 19 2017

Date



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*Community  
Standards &  
Licence Appeal  
Committee*

10019 – 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-5026 F: 780-496-8199  
[cslac@edmonton.ca](mailto:cslac@edmonton.ca)  
[edmontoncslac.ca](http://edmontoncslac.ca)

## Decision of the Committee

### Appeal of Decision to Refuse to Issue a City of Edmonton Driver's Licence Order Pursuant to Section 42 of the *Vehicle for Hire Bylaw*

Hearing Date: April 6, 2017

Appellant: A P  
(Gurpreet Singh Gill, Legal Counsel)

#### I. ISSUE

Whether or not the proper criteria have been met to refuse to issue a City of Edmonton Driver's Licence to A P .

#### II. APPEARANCES AND EVIDENCE

In dealing with this appeal, the Community Standards and Licence Appeal Committee (the Committee) heard from:

Appellant: Mr. Z. Filipovic, Student at Law, VLG Lawyers,  
Counsel for the Appellant

Respondent: Mr. M. Chong, Acting Director, Licensing and Vehicle for Hire

##### **Written Submissions:**

- Record from the Respondent, Mr. M. Chong, Acting Director, Licensing and Vehicle For Hire
- Submission from Mr. Gurpreet Singh Gill, VLG Lawyers, Counsel for the Appellant
- Submission from Mr. M. Chong, Respondent
- Response from Mr. Gurpreet Singh Gill to the Respondent's written submission

#### III. SUMMARY OF APPELLANT'S POSITION

Mr. Z. Filipovic appeared on behalf of the Appellant and is requesting the Committee overturn the Respondent's decision and to grant a chauffeurs licence<sup>1</sup> to Mr. F .  
Mr. P is willing to accept any conditions imposed on his licence such as outlining

<sup>1</sup> The Applicant referred to the issuance of a chauffeurs licence throughout the presentation. Under the current bylaw, there does not appear to be any difference between a chauffeur's licence and a taxi licence so this was not relevant to the Committee's decision.



specific work times, requiring the installation of a camera within his taxi or more frequent renewals of his licence.

The City Manager has refused to renew Mr. P [redacted] 's licence under Section 38 of the *Vehicle for Hire Bylaw* stating it was in the public's best interest to do so. The sole reason for the refusal is the seven criminal charges against Mr. P [redacted], to which he has pled not guilty.

This decision violates Section 11(d) of the *Canadian Charter of Rights and Freedoms* which states that any person detained or charged with an offence has the right to be presumed innocent until proven guilty. Since Mr. P [redacted] has pled not guilty he is in fact innocent according to the law; therefore his charter rights have been infringed by not being granted a licence. He is not considered a flight risk or a threat to public safety and is not currently being detained.

Section 2(f) of *The Canadian Bill of Rights* states that no law of Canada shall be construed as to deprive a person charged with a criminal offence of the right to be presumed innocent until proven guilty.

Mr. Chong is obligated to respect the *Charter of Rights* and the *Bill of Rights* and view Mr. P [redacted] as innocent. The decision to refuse the licence ignores the fundamental principles of justice and condemns Mr. P [redacted] as being guilty, denying him the right to earn a living. There is no other job he can obtain at the moment that can provide him a comparable income.

Mr. Chong's decision was based on the number and the seriousness of the charges on the police information check. Mr. Chong does not have access to disclosure for the charges and cannot possibly know how serious the evidence against Mr. P [redacted] is. A preliminary hearing is scheduled in a few weeks and there is a chance there could be a discharge based on the evidence.

While the alleged offences are violent in nature, they are also domestic in nature and not directly relevant to the job. Neither the Appellant nor his counsel is attempting to trivialize potential domestic violence; however, there are two sides to every story and the correct one has not yet been determined. This is a serious dispute between two parties but not one that should deny Mr. P [redacted] the opportunity to make a living.

The onus is on the Respondent to demonstrate that there are other reasons as to why the licence should be denied. There is no proof that Mr. P [redacted] is a threat to public safety. He has no other previous criminal issues and zero disputes with passengers. He has performed his job admirably for ten years without any complaints.

Mr. Filipovic referred to *Dunsmuir v New Brunswick* which is the leading case law regarding standard of review. He stated that the reasoning process for making this decision was not reasonable as it was based on one piece of evidence and ignored the protection Mr. P [redacted] had under the Charter and Bill of Rights.

This decision affects not only Mr. P but also his family as he is paying spousal and child support. He is also taking care of his sick mother. If he can't work there is a severe impact on others. The charges, court dates and trials could take over a year to resolve. If Mr. P is found innocent he will have suffered a large financial loss with no justification and no ability to recoup this loss.

Upholding this decision will displace the notion of presumption of innocence, will create a reverse onus situation for Mr. P and will set an incorrect precedent.

In response to questions Mr. Filipovic confirmed that his client has had no other disputes with police or City bylaws. He is currently not driving a taxi and his income is gone.

#### **IV. SUMMARY OF RESPONDENT'S POSITION**

Mr. M. Chong, former Acting Director of Business Licensing and Vehicle for Hire, appeared as the decision maker to clarify the record, provide additional context as required and explain the grounds of his decision.

The decision of refusal was based on:

1. The application package submitted on December 28, 2016.
2. The response provided by Mr. P's counsel received on January 4, 2017.
3. Regulatory framework that exists in the vehicle for hire industry today.

The decision was based on the number and seriousness of charges outlined in the police information check dated December 20, 2016. There are actually 10 charges in total ranging from assault, sexual assault, breaching conditions of recognisance, breaching protection orders and unlawful confinement. Both parties agree that the alleged offences are violent and serious in nature.

He relied on the fact that law enforcement officials, an unbiased third party, have determined there were reasonable and probable grounds to lay multiple charges against Mr. P. He has never indicated or presumed that Mr. P is guilty of these charges but the number and seriousness of these charges invokes a public interest consideration.

Whether or not the incidents involve a member of Mr. P's family is inconsequential. These charges are violent person to person charges against a member of the public. The alleged victim is a member of the public and may request Vehicle for Hire services at any time. Providing Vehicle for Hire services to the public is a tough and demanding job for drivers. Drivers deal with rude, disrespectful clients and violent person to person offences are an unacceptable way to resolve potential disputes.

Mr. P     's previous driver's licence was issued in 2014. Section 32(1) of the *Vehicle for Hire Bylaw* was not complied with as Mr. Pa     did not inform the City of the charges that were laid against him and he did not submit an updated Police information check.

In July, 2016, the Province of Alberta's *Transportation Network Companies Regulation* came into force as an amendment to the *Traffic Safety Act*. Section 4 of this Act provides minimum requirements as to what is not acceptable on a criminal records check for transportation network companies and their drivers. Included are charges or convictions for any offence of a violent nature or any offence involving sexual assault.

While these regulations are specific to drivers of transportation network companies it is reasonable to adopt these same standards in this case as both taxis and private transportation providers offer the same type of service and the public safety obligations are the same. The *Transportation Network Companies Regulation* provides a base line of minimum driver standards which Mr. P     does not meet.

Limousine, taxi or private transportation industry (PTI) drivers all share the same type of City of Edmonton driver's licence. Using one set of standards for all drivers is reasonable and in the public interest. Mr. F     's criminal records check does not meet these minimum standards.

Mr. P     can pursue other work options which do not require a Police Information check. Obtaining a vehicle for hire driver's licence is not a right and an application can be refused based on reasonable grounds and public interest considerations. It is reasonable to expect greater scrutiny in order to obtain a driver's licence.

The decision to not issue a licence is intended to be a temporary remedy. If charges get withdrawn or are resolved without resulting in a conviction Mr. F     may re-apply, provide an updated criminal records check and be confident that an objective decision will be made based on the new information provided.

The City of Edmonton has a duty to the public to make decisions to ensure Vehicle for Hire services are safe and reliable. Due to the public interest concern involved the Decision of refusal was reasonable.

Ms. N. Jacobson, Law Branch assisted Mr. Chong in answering questions from the Committee.

Mr. Chong confirmed he does not know Mr. P     's skill sets or educational background but still believes there are other employment options available for him that do not require a police information check. This specific type of occupation is not suitable for him based on the above reasons.

Ms. Jacobson explained that a decision made by administration is stayed for a licence that has not yet expired. If a licence has fully expired and the renewal application is

refused the licence is not in effect and remains in the application stage which is the case here.

Ms. Jacobson confirmed that the City of Edmonton cannot pull the licence of employees or owners of regular businesses if charges have been laid but a person has not been convicted.

Not providing an updated police information check would result in a fine, not a licence being cancelled.

The Respondent is not aware if any recognisance type conditions were issued by the judge at the bail hearing and has no way of finding out this information. The onus is on the Applicant to advise of such conditions at the time of licence application.

#### V. REBUTTAL OF THE APPELLANT

While the Respondent has never labelled his client as guilty, he has always referred to him as not guilty as opposed to innocent which is a big difference.

Mr. Chong has incorrectly interpreted Section 4(5) of the *Transportation Network Companies Regulation*. He has used this section as the argument for the minimum driver standards but this regulation does not apply to taxis. Section 4(5)(e) limits the offences in items (a) to (d) as relating to the operation of a motor vehicle. Domestic issues are not related to the functions, duties or business of a Transportation Network Company.

The Respondent previously stated that an Emergency Protection Order is a form of court order that is issued when violence or threatening behaviour occurs. Those are not the only times such an order can be granted and they are often issued based on the arguments of just one of the parties. His client keeps getting labelled as guilty even though he hasn't been convicted of anything yet.

While the police have charged Mr. P with assault and sexual assault this does not make Mr. P guilty. A preliminary hearing has been scheduled and the Appellant believes these charges will be dropped.

It is disrespectful for the Respondent to say that Mr. P can work in another job. Mr. P is just as likely to commit an offence working at another place of employment as he would driving a cab. Although Mr. P can get a variation order to have his support payments reduced this would negatively affect multiple people.

He agrees with the Respondent's statement that it is not Mr. P's right to operate a taxi vehicle. It is, however, his right to be presumed innocent until proven guilty. The Charter protects an individual no matter how many offences there are, how recent, and how severe.

It is difficult for everyone to remain objective given the severity of the offences but we must attempt to do this. While people want to be safe from someone who has had charges laid against them they would also want to have their own charter rights protected.

Mr. P has worked for 10 years in the industry with no previous charges. Mr. P is not opposed to conditions being imposed on his licence.

Mr. Filipovic agrees that the police charges were not disclosed as required to the City but this is a very long Bylaw and it is easy for a lay person to miss this requirement. Every party makes mistakes and the City also erred and a preliminary hearing had to be held to get this appeal heard.

## VI. REBUTTAL OF THE RESPONDENT

He feels the *Transportation Network Companies Regulation* is applicable as Vehicle for Hire is a public service. Safety of passengers and the general public must be considered. He interprets this legislation as stating charges of violence count as being unacceptable. While the charges are domestic in nature they are still against a member of the public. He feels the act does not limit the charges to only those occurring during an act of driving or operating a vehicle for hire. The regulations which came into force in 2016 have helped clarify what is acceptable and what is not for the Vehicle for Hire industry.

The Appellant has a duty to inform the City if information on the police check has changed and this requirement was not met.

Allowing the renewal of this licence could create a difficulty for administration in that taxi drivers would operate under a different set of rules. Currently only one type of City driver's licence is issued. The holder of a taxi licence could decide to drive for a private transportation provider in the future which could result in that driver being offside of Provincial regulations.

He conceded that private transportation providers are not a taxi and are defined differently both by the City and the Province.

## VII. DECISION

The Committee cancels the decision of the Acting Director, Licensing and Vehicle for Hire. A condition is imposed on the licence requiring Mr. P to report the current status of the charges every three months to the appropriate delegate of the City Manager until the charges are resolved.

## VIII. REASONS

This case involves the appeal of a decision to refuse to renew the taxi licence of Mr. P . The Acting Director, Business Licensing and Vehicle For Hire, Mr. Chong, made this decision citing the number and serious nature of charges that are pending against Mr P . Mr. Chong found that, based on the violent nature of these charges, that it would not be in the public interest for Mr. Chong to continue to operate as a cab driver. These charges all appear to surround allegations relating to domestic issues. They may not go to trial for many months and it could easily be over a year before they are fully decided. This Committee must therefore decide whether, based on the information that is currently available, there is a reason to think that Mr. P should not be able to earn a living as a City of Edmonton taxi driver until these charges have made their way through the Court system.

In his presentation Mr. Chong stated that having a City of Edmonton licence is a right and not a privilege. While he is correct, there also needs to be a realization that people rely on these licences to earn a living in the City of Edmonton, and the cancellation or refusal to renew a licence can, at times, have direct financial consequences to an individual or his family. While some individuals may be able to find alternate work, the City will seldom be in a situation to know whether there are other skill sets that an individual may have if they can no longer operate a taxi. This means that the decision to refuse to renew, or to otherwise cancel a licence, is a serious one. There would be an expectation that a licence will be issued, unless there is a clear and rational reason for the City to refuse to issue it.

In the situation where charges are pending, and there is limited information about the nature of these charges, this makes the job of the City to protect the public interest challenging. It may be even more challenging since the City may not be able to obtain all the information that is relevant about the basis of the charges. However, this Committee is concerned that simply refusing to issue a licence whenever there is a charge, without knowing and considering some of the background relating to the charges, does not sufficiently balance the interests of the individual who is applying for the licence, with the interests of the public as a whole.

A charge is not a conviction, and the effect of the City decision to refuse to issue the licence in this particular set of facts, at least to some extent, treats the two as if they are the same. While Mr. Chong stated on a number of occasions that he is not assuming that Mr. P is guilty, the decision, whether Mr. P is guilty or innocent, means that Mr. P no longer has a licence. Following the logic that was presented by Mr. Chong, anyone who is charged with any type of assault or other “violent” crime, would automatically be disqualified from operating a City of Edmonton taxi until such charges were ultimately dealt with. There would be no analysis as to whether the assault related to the job duties of operating a taxi, such as assaulting a passenger. There would be no analysis as to the strength of the evidence against the taxi driver. There would be no analysis as to whether there is a likelihood

that someone will reoffend, or otherwise has a pattern of conduct suggesting a violent nature that might have an impact on the public. In other words, there is no true analysis as to whether Mr. P truly poses a threat to public safety or the public interest.

We know that in this case the Court of Queen's Bench has granted bail to Mr. P. In granting bail, the Court has decided Mr. P is not a threat to the public. In making the decision to grant bail, the Court would also have had far more information about the nature of the allegations against Mr. P, and his likelihood to reoffend, than this Committee. The fact that Mr. P has been released by the Courts is therefore a good indication that he does not pose a threat to the public.

This is not to say there could not be a situation where charges would be enough to cancel a licence. This also does not mean that the decision to grant bail would be a deciding factor in each and every case. This Committee recognizes that there are different standards of proof in criminal courts and in administrative proceedings. There will always be times when there will be different considerations that need to be taken into account in the licencing regime that are not taken into account in a bail hearing. In each and every case, all the circumstances need to be reviewed on an overall basis to determine whether refusing to issue a licence is truly in the public interest. If, for example, the allegations were that a taxi driver had seriously assaulted a passenger while in the course of his work, this may, depending on the circumstances, be enough to refuse to issue a licence. Each case would have to be decided based on the individual facts.

From the Committee's perspective the analysis would need to recognize that the Charter of Rights and Freedoms presumes innocence. That presumption must be the starting point in any analysis of the public interest, but may not always be the end point as suggested by Mr. F. Instead, if there are charges brought against an individual that is applying for a licence, the following additional factors may need to be considered.

- What is the nature of the underlying allegations? Are the allegations disputed? What are the disputed facts?
- Where there is a dispute about facts, is there any information to demonstrate the strength of the evidence one way or the other?
- What level of violence is indicated in the charges (for example is the charge about a simple assault, or do they relate to assault with a deadly weapon)?
- Do the charges relate in some way to the operation of a taxi cab?
- Is there a significant risk of reoffending?
- Is there any relevant history showing a pattern of conduct?

These factors would not form a closed list, but are simply examples of the types of things that may need to be analyzed before making a decision to refuse a licence. Ultimately all of the factors would need to be analyzed with an eye to answering the question - do the charges indicate that there is a risk of danger to the general public if the individual is given a taxi licence?

In this case, based on the limited information we have about these charges, it appears that the charges relate to allegations related to Mr. F's domestic situation. Mr. Chong stated a number of times that in his opinion, since everyone is a member of the public, an assault on a single member of the public is a threat to the public interest and public safety. The Committee disagrees. The real question is whether there is a likelihood that Mr. P will form a threat to the public as a whole in his job as a taxi driver, as opposed to an isolated single individual that is unrelated to him driving a taxi. A threat to a single member of the public in the context of a domestic situation does not necessarily mean that he poses a threat to the general public. To put this into another context, if a taxi driver had assaulted someone in a bar setting after a few drinks and was charged for his actions, there may still be a grudge against that person, but that does not mean the taxi driver would pose a threat to the general public.

These reasons are not meant to criticize Mr. Chong. He had to make a difficult decision based on the limited nature of the information that he had available to him. He made a good faith decision based on his interpretation of the Vehicle For Hire Bylaw, and his view of the public interest. The bylaw does not attempt to define the public interest in this context, and does not directly deal with whether charges would be sufficient to take away a licence. In this case, this Committee is simply of the opinion that Mr. Chong's interpretation was too aggressive, and that more analysis would be needed before charges would be enough to withhold a licence.

It is also not the intention of the Committee to downplay the significance of these charges. There are serious allegations and they need to be taken seriously. The Committee's decision simply is a recognition that the charges appear to be unrelated to Mr. P's career as a taxi driver, and there does not appear to be any danger to the public if he is granted a licence.

#### Other Issues Raised During the Course of the Hearing

Mr. Chong mentioned that he was using the *Transportation Network Companies Regulation* as a guide to suggest that his interpretation is correct. The Committee disagrees with using this Regulation to support Mr. Chong's interpretation for two reasons. First, taxis are specifically excluded in the definitions. Second, while it is arguable whether the regulation is clear on this point, this Committee would interpret that regulation to only apply to charges that are directly related to a person's employment as a transportation network driver. In other words, the wording in the regulation seems to support the factor that the Committee listed above about determining whether there is some relationship between the charge and the operation of a taxi cab.

Mr. Chong also raised the issue, for additional context, that Mr. F breached the *Vehicle for Hire Bylaw* by failing to report the charges when they were laid. This Committee agrees that it appears that there is a breach of the bylaw. Section 47 of the bylaw contemplates a fine of \$500 for this offense, which is one of the lower fines in the bylaw. In the appropriate circumstances, looking at the facts as a whole, the failure



to report charges could be one factor in cancelling or refusing to renew a licence. Here, however, this failure did not form part of the original reasoning of Mr. Chong, and there is a good chance that this failure was truly a simple error on the part of Mr. P as opposed to a deliberate attempt to avoid the bylaw requirement. The Committee therefore does not think, in this context, that this failure to report was significant enough to suggest that a refusal to issue a licence would be the appropriate remedy.

Additional Licence Condition

During the presentation Mr. P suggested that he was willing to abide by any condition on his licence. As mentioned above, the City currently has limited information relating to these charges. While right now it appears that the charges do not suggest that he poses any danger to the public, it may be that additional information becomes available during the course of the criminal proceedings that may be relevant. As such, the Committee imposes a condition on Mr. P's licence that he should report to the appropriate delegate of the City (as identified by Mr. Chong) every three months on the status of the charges that are pending against him.



\_\_\_\_\_  
Councillor M. Nickel

**APR 19 2017**

\_\_\_\_\_  
Date



# COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

## MINUTES

April 6, 2017 – Churchill Building

### PRESENT

M. Nickel, B. Anderson, M. Banga

### ALSO IN ATTENDANCE

S. McDonald, Office of the City Clerk  
 C. Ashmore, Law Branch  
 I. Russell, Office of the City Clerk

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### DECISION SUMMARY

ITEM	DECISION
1. CALL TO ORDER AND RELATED BUSINESS	
1.1 Call to Order	

S. McDonald, Office of the City Clerk, called the meeting to order at 9:30 a.m.

**Election of Chair**

S. McDonald, Office of the City Clerk, called for nominations for the position of Chair, Community Standards and Licence Appeal Committee for this meeting.

Councillor Anderson nominated Councillor Nickel for the position of Chair, Community Standards and Licence Appeal Committee for the April 6, 2017 meeting. As there were no further nominations, S. McDonald, declared the nominations closed and asked for a motion.

**Moved M. Banga:**

That Councillor Nickel will act as Chair for the April 6, 2017, Community Standards and Licence Appeal Committee Meeting.

**In Favour:**

**Carried**

B. Anderson, M. Nickel, M. Banga

1.2 [Adoption of Agenda](#)

**Moved M. Banga:**

That the April 6, 2017, Agenda be adopted

**In Favour:**

**Carried**

B. Anderson, M. Nickel, M. Banga

1.3 [Adoption of Minutes](#)

**Moved M. Banga:**

That the March 2, 2017, Community Standards and Licence Appeal Committee meeting minutes be adopted.

**In Favour:**

**Carried**

B. Anderson, M. Nickel, M. Banga

**2. EXPLANATION OF APPEAL HEARING PROCESS**

Councillor M. Nickel explained the appeal hearing process and asked if anyone objected to any Member of the Community Standards and Licence Appeal Committee hearing the appeals. No one objected.

### 3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS

#### 3.1 [Appeal of Order – K. B., 7916 - 117 Avenue NW, Edmonton, AB, Order to Pursuant to Section 546\(1\)\(c\) of the \*Municipal Government Act\*.](#)

K. B., Appellant, made a presentation and answered the Committee's questions.

T. Courtoreille, Citizen Services Department, made a presentation and answered the Committee's questions.

Two sets of photographs dated February 3, 2017, and April 5, 2017, were provided to the Appellant, Members of the Committee and the Office of the City Clerk.

#### **Moved B. Anderson:**

The Committee Upholds the Order You are therefore ordered to:  Remove all tires, wood, loose litter and debris and other assorted materials from the entire property and take any actions or remove any other items that are contributing to the unsightly condition of the property.	Citizen Services Dept.  <b>Due Date:</b> February 20, 2017
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#### **In Favour:**

B. Anderson, M. Nickel, M. Banga

#### **Carried**

#### 3.2 [Appeal of Decision – A. P. - Refusal to issue a City of Edmonton Driver's Licence under Section 42 of the \*Vehicle for Hire Bylaw\*.](#)

Councillor Nickel reviewed the hearing process and asked if there were any objections to any member of the panel. There were no objections.

C. Ashmore, Law Branch, responded to questions regarding procedure and clarified that the parties have 20 minutes to speak.

The Chair ruled that all information (both previously submitted and new information) would be presented at once.

Z. Filipovic, Student at Law, of VLG Lawyers represented A. P. as legal counsel. Mr. Filipovic made a presentation and answered the Committee's questions.

M. Chong, Development Services Branch, Sustainable Development, made a presentation and answered the

Committee's questions. N. Jacobsen, Law Branch, assisted Mr. Chong in responding to questions from the Committee.

C. Ashmore, Law Branch, clarified his role as legal counsel for the Committee as opposed to the role of N. Jacobson, Law Branch, who is legal counsel for the Respondent.

Councillor M. Banga confirmed that he had not personally been involved in investigating the charges relating to Mr. P. in his previous career with the Edmonton Police Service.

The Committee passed a motion to meet in private at 11:22 a.m., pursuant to Section 4 and 27 of The Freedom of Information and Protection of Privacy Act.

The Committee met in public at 11:45 a.m.

**Moved M. Nickel:**

The Committee cancels the Decision of M. Chong, Acting Director, Licensing and Vehicle for Hire, and grants a City of Edmonton Driver's Licence, subject to conditions, to A. P.	Sustainable Development Dept.
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**In Favour:**

B. Anderson, M. Nickel, M. Banga

**Carried**

**4. [ADJOURNMENT](#)**

The meeting adjourned at 11:47 a.m.

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Chair

\_\_\_\_\_  
City Clerk