



COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE

AGENDA / SELECTION SHEET

August 16, 2018 – Churchill Building

9:30 a.m.

Call To Order
Lunch

4:30 p.m. Adjournment

12 Noon to 1:30 p.m.

MEMBERS

Clr. M. Banga, Clr. S. McKeen, Clr. T. Caterina

ITEM		ACTION
1.	CALL TO ORDER AND RELATED BUSINESS	
1.1	Call to Order	
1.2	Adoption of Agenda	
1.3	Adoption of Minutes <ul style="list-style-type: none"> • July 12, 2018, Community Standards and Licence Appeal Committee Minutes 	
2.	<u>EXPLANATION OF APPEAL HEARING PROCESS</u>	
3.	<u>COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS</u>	
3.1	Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to P. T. (225276549-001)	
3.2	Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to A. M. (28648259-001)	
3.3	Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to F. F. (223098015-001)	
3.4	Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to B. M. (170159931-001)	
3.5	Appeal of Order - M. B. - 12006 - 65 Street NW, Edmonton, Alberta, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i>.	
3.6	Appeal of Order - 2089093 Alberta Ltd., 12748 - Fort Road NW, Edmonton, Alberta, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i>.	

ITEM		ACTION
3.7	Appeal of Order - E. R.; 11223 - 86 Street NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i>.	WITHDRAWN
3.8	Appeal of Debt Recovery Invoice 37932984 - Weed Mowing - K. P.	
4.	<u>ADJOURNMENT</u>	

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COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

MINUTES (Draft)

July 12, 2018 – Churchill Building

PRESENT

M. Banga, J. Dziadyk, T. Caterina

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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3.1	Appeal of Decision to refuse to issue a City of Edmonton's Driver's Licence under the Vehicle for Hire Bylaw 17400 to A. P. (File No. 080251498-001)	2	Appeal Allowed
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DECISION SUMMARY

ITEM		DECISION
1.	CALL TO ORDER AND RELATED BUSINESS	

Clr. Banga called the meeting to order at 9:34 a.m.

1.1 **Call to Order**

1.2 **Adoption of Agenda**

Moved J. Dziadyk:

That the July 12, 2018, Community Standards and Licence Appeal Committee Agenda be adopted.	
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In Favour:

M. Banga, J. Dziadyk, T. Caterina

Carried

1.3 **Adoption of Minutes**

Moved T. Caterina:

That the June 14, 2018, Community Standards and Licence Appeal Committee Minutes be adopted.	
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In Favour:

M. Banga, J. Dziadyk, T. Caterina

Carried

2. EXPLANATION OF APPEAL HEARING PROCESS

Clr. Banga 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 Decision to refuse to issue a City of Edmonton's Driver's Licence under the Vehicle for Hire Bylaw 17400 to A. P. (File No. 080251498-001)**

Mr. A. Karbani, legal counsel for the Appellant, made a presentation and answered the Committee's questions.

Mr. C. Ashmore, Law Branch, answered the Committee's questions.

Ms. W. T. Ramirez General Manager, Business Licensing, Inspections and Compliance, and Ms. N. Jacobsen, Law Branch, made a presentation and answered the Committee's questions.

The Committee met in private at 10:37 a.m. pursuant to Section 20 of *The Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 11:07 a.m.

Moved T. Caterina:

The Committee upholds the appeal. The licence shall be issued for one year. For the next five years Mr. P's licence must be renewed on an annual basis

Business
Licensing and
Vehicle for
Hire

In Favour:

Carried

M. Banga, J. Dziadyk, T. Caterina

3.2 **Appeal of decision to impose conditions on Business Licence 107425872-001; 1370498 Alberta Ltd., o/a Nyala Lounge, 10875 - 98 Street NW**

This appeal was withdrawn by the Appellant

4. ADJOURNMENT

The meeting was adjourned at 11:08 a.m.

Chair

City Clerk



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Licence Appeal
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Decision of the Committee

Appeal of Decision to Refuse to Issue a City of Edmonton Driver's Licence Pursuant to Section 42 of the *Vehicle for Hire Bylaw* 17400 City File No. 225276549-001

Hearing Date: August 16, 2018

Appellant:

I. ISSUE

Should a Driver's Licence be issued to _____ pursuant to the *Vehicle for Hire* Bylaw 17400?

II. APPEARANCES AND EVIDENCE

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

Appellant: Mr.

Respondent: Ms. Wai Tse Ramirez, General Supervisor, Business Licensing, Inspections and Compliance

Ms. Nancy Jacobson, City of Edmonton Law Branch

Written Submissions:

- Record and Written Submission from the Respondent
- Written Submission and Rebuttal from the Appellant
- Response to Appellant's Submission from the Respondent

III. SUMMARY OF APPELLANT'S POSITION

Mr. [redacted] first applied for a chauffeur's licence in 2016, and began driving for Yellow Cab in March, 2017. His City of Edmonton licence expired on June 21, 2018, and he was refused a new licence due to old criminal charges dating back from 2012. He has had no further convictions since 2012.

He depends on his income to support his two children – one in University and the other in grade 11; his wife only works part time. He also owns a house.

Prior to driving a taxi he worked in machine shops for 9 or 10 years but due to economic conditions has been unable to find work in that line of work. He has been out of work since his licence expired and has applied for various jobs without success.

He has had no complaints from members of the public relating to his work as a taxi driver and referred to the letter of support from Yellow Cab contained in his written submission.

He does not understand why a chauffeur's licence was issued to him in 2016 yet his current application has been refused. Nothing has changed since his 2016 application.

Mr. [redacted] confirmed that he was driving his personal vehicle at the time he received the impaired driving charge in November, 2012.

IV. SUMMARY OF RESPONDENT'S POSITION

Ms. Wai Tse Ramirez explained why the decision to deny Mr. [redacted] application for a vehicle for hire driver's licence is reasonable and in the public's best interest.

The Vehicle for Hire Program and associated *Vehicle for Hire* Bylaw is how the City of Edmonton regulates businesses that transport passengers in exchange for a fee. The Bylaw prohibits a person from driving a vehicle for hire if that person, during the past 10 years, was convicted of any offence under the Criminal Code that is related to the functions, duties or business of a vehicle for hire. Applications are automatically refused if the applicant's police records check shows such an offence.

The Vehicle for Hire Program is a service to the public and it is reasonable to expect greater scrutiny in order to obtain a City of Edmonton driver's licence. The public expects that licencing decisions ensure safe and reliable transportation services.

The information provided in Mr. [redacted] police information check raised a public interest concern. Mr. [redacted] was convicted of driving with more than 80 mg. of alcohol in his blood in 2009 and driving while disqualified in 2010 and 2012.

Ms. Ramirez and Ms. Jacobson provided the following responses to questions from the Committee:

1. The Bylaw was changed in July, 2017, to align with the new Provincial regulations. The Bylaw does not specifically state if an offence was committed while driving a vehicle for hire or a personal vehicle – just if a conviction is related to the act of driving. The City’s goal is to make sure that the public has confidence in the system and that there are no safety concerns regarding any of the City licenced drivers.
2. A Vehicle for Hire licence expires after the one or two year term that it was originally issued for. A driver then has to make a new application which is subject to the current regulations in place at the time. This is not a renewal but a new application.
3. While the Vehicle for Hire Licence application form does ask if this is for a “New” licence or a “Renewal” this is intended to flag the service advisor if there is a previous file.
4. Ms. Ramirez confirmed that the Program Manager who issued the licence to Mr. _____ in 2016 would have had the information regarding the previous convictions which are the reason for the current refusal.
5. A vehicle for hire driver is required to notify the City if he is charged with any offense while holding a valid licence. The licence is only suspended in the event of a conviction. If this process does not work the licence would be cancelled at the time of a new application.
6. The Provincial rules must be applied to any transportation vehicle network class of vehicles. The City has chosen to apply these regulations to all vehicles for hire to keep things simple and to allow maximum flexibility for drivers to move between classes.
7. It is reasonable for the City to replicate the Provincial regulations in their Bylaw; it is not reasonable to say a person is ineligible to drive provincially but can drive at a City level.

V. REBUTTAL OF APPELLANT

Mr. _____ would understand if he were applying for a brand new chauffeur’s licence. However, he has been driving a taxi with no problems, accidents or personal complaints.

He believes there is a line in the police report he submitted that confirms he is not any kind of danger to the public.

VI. DECISION

The Committee grants the appeal and a City of Edmonton Driver's Licence will be issued for one year. Written reasons to follow.

VII. REASONS

Reasons of Councillor Banga and Councillor Caterina

This case surrounds changes to the *Vehicle for Hire Bylaw* 17400 which were implemented in 2017. The changes include the addition of Section 33.1 to the bylaw which states:

33.1 (1) No person may drive a vehicle for hire if, during the past 10 years, the person was convicted of an offence under the Criminal Code (Canada) or the Controlled Drugs and Substances Act (Canada) that is related to the functions, duties, or business of a vehicle for hire or driver, which includes, but is not limited to:

- (a) any offence of a violent nature, including firearms and weapons offences;
- (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching;
- (c) trafficking;
- (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion, or theft; or
- (e) any offence relating to the unlawful operation of a motor vehicle.

As a result of the changes to the *Vehicle for Hire Bylaw* the Appellant has been denied a vehicle for hire license. Prior to the passing of the bylaw he was allowed to drive a City of Edmonton taxi notwithstanding that he had convictions for driving under the influence. When he attempted to renew his license, the renewal was denied. He has therefore lost his means to earn an income as a result.

While vehicle for hire licensing is about ensuring public safety, the fairness to the Appellant must also be taken into account. This individual was able to drive a vehicle for hire prior to the passing of the new bylaw, and there is no evidence that his driving was either unsafe or resulted in any type of public interest concerns. To put it simply, prior to the passing of the bylaw he was not seen as being a danger to public safety. Just because the bylaw has been passed does not make him any more of a danger to the public. The bylaw is simply a tool to guide the sorts of things that need to be examined

in determining whether someone is creating a risk to the public, and it needs to be read in a way that is fair to the Appellant.

It is unclear whether City Council intended that the changes to the bylaw were meant to act retroactively to penalize individuals that were already licensed to operate a vehicle for hire but had past criminal convictions. In our view, given this lack of clarity, reading the bylaw in a way that imposes a retroactive impact would be unfair and would have the unintended consequence of taking away licenses from those that were safely operating vehicles for hire.

Ultimately this is a case of an existing vehicle for hire driver that was simply renewing his license. He was able to drive under the prior bylaw with no concerns. The bylaw does not say it applied retroactively, and we find that it would be unfair to the appellant to suggest that it operates retroactively to take away his license. In this case fairness dictates that the license be granted.

We would therefore issue the license for a one year period. During that one year it would be of assistance if City Council had a debate about amending this section to make it clear whether this section was intended to apply to renewals.


Councillor M. Banga

August 30, 2018
Date

Reasons of Councillor McKeen

I disagree with my fellow councillors on both the outcome and the interpretation of the bylaw.

The interpretation of Section 33.1 of the *Vehicle for Hire Bylaw* is clear. Any conviction in the last 10 years that relates to driving a vehicle for hire means that a license will not be issued. The main function of a taxi driver is to drive. I cannot think of a conviction more clearly related to driving than operating a motor vehicle under the influence of alcohol. This means that the bylaw prohibits the issuance of a license in this situation.

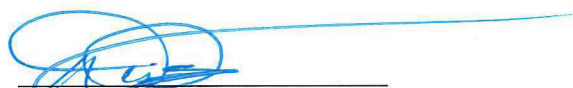
Further, whether this offense took place while the Appellant was operating a vehicle for hire is not relevant. The bylaw does not require that the offense take place while working. Instead it requires an analysis of whether the offense relates to the job duties of a vehicle for hire driver. These job duties include driving and interacting with the public.

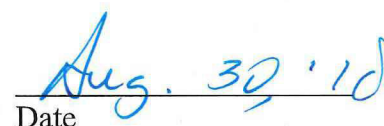
In 2017 City Council added Section 33.1 into the bylaw. This demonstrates City Council's intent to create transparent rules to protect the public. It is clear that one of the main purposes of Section 33.1 is to establish public confidence in the vehicle for hire system. City Council wants both citizens of the City of Edmonton, as well as visitors to our City, to have 100 percent confidence that the City will stand behind the people that are being licensed as being safe drivers at all times. This confidence will not occur if drivers are allowed to have criminal convictions for things like driving under the influence. Imagine the surprise of a passenger if they found out that they were riding in a taxi where the driver had been convicted for impaired driving. Such a revelation would not inspire confidence in the system.

In this case, the Appellant not only had an episode of driving under the influence in 2009, but there are then two episodes of driving while disqualified. These convictions both show a direct relationship to the Appellant's job duties, and they also show a willingness to drive even when suspended from doing so. The public should not be exposed to the risk of the Appellant breaking the law again.

Councillors Banga and Caterina also appear to be concerned that the legislation did not allow drivers that already had a license and were driving to continue to do so. They would read the bylaw so that it applies to new applications only. With respect, this is rewriting the legislation which is not the role of this Committee. This Committee is bound by the way the bylaw is currently worded and there is no grandfather clause built into the current bylaw. There is nothing in the bylaw that suggests new applicants should be treated on a different basis than renewal applicants. Further, if the protection of the public is the primary goal of the change to the legislation, there would be no reason to treat them on a different basis. In fact, allowing drivers to keep their license when they have such convictions would undermine the confidence of the public in the vetting process designed to ensure overall safety.

I would therefore dismiss the appeal.


Councillor S. McKeen


Date



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Decision of the Committee

Appeal of Decision to Refuse to Issue a City of Edmonton Driver's Licence Pursuant to Section 42 of the *Vehicle for Hire Bylaw* 17400 City File No. 286148259-001

Hearing Date: August 16, 2018

Appellant:

I. ISSUE

Should a Driver's Licence be issued to _____ pursuant to the *Vehicle for Hire Bylaw* 17400?

II. APPEARANCES AND EVIDENCE

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

Appellant:

Respondent: Ms. Wai Tse Ramirez, General Supervisor, Business Licensing, Inspections and Compliance

Ms. Nancy Jacobson, City of Edmonton Law Branch

Written Submissions:

- Record and Written Submission from the Respondent

III. SUMMARY OF APPELLANT'S POSITION

is 33 years old and moved to Canada as a young child.

He made some bad choices in life when he was 25 years old. In the last eight years he has moved on and has completely turned his life around; he has become a new person. He is now a family man, married to a successful doctor and has a young child with a second one on the way.

He is anxious for his past to be over and to get his life back on track. He has proven he is a good citizen and has given back to the community. At a recent hearing to get his driver's licence back it was mentioned that he is not a threat to the public.

He has been in the limousine business for over 15 years, both as a driver and in management and it is all he knows. He would like a chance to redeem himself and be able to provide properly for his family and is open to having conditions placed on his licence should this appeal be granted.

He confirmed that he was charged in 2011 but not convicted until 2013.

His employer has kept him on in a different capacity and he is currently doing dispatching, cleaning, booking and is involved with the maintenance of limousines.

He had a driver's licence from 2004 until 2013; his licence was then suspended for five years.

IV. SUMMARY OF RESPONDENT'S POSITION

Ms. Wai Tse Ramirez explained why the decision to deny Mr. : application for a vehicle for hire driver's licence is reasonable and in the public's best interest.

The Vehicle for Hire Program and associated *Vehicle for Hire* Bylaw is how the City of Edmonton regulates businesses that transport passengers in exchange for a fee. The Bylaw prohibits a person from driving a vehicle for hire if that person, during the past 10 years, was convicted of any offence under the Criminal Code that is related to the functions, duties or business of a vehicle for hire. Applications are automatically refused if the applicant's police records check shows such an offence.

The Vehicle for Hire Program is a service to the public and it is reasonable to expect greater scrutiny in order to obtain a City of Edmonton driver's licence. The public expects that licencing decisions ensure safe and reliable transportation services.

The information provided in Mr. [redacted]; police information check raised a public interest concern. Mr. [redacted] was convicted of flight while pursued by a peace officer and dangerous operation of a motor vehicle causing bodily harm.

Ms. Ramirez and Ms. Jacobson provided the following responses to questions from the Committee:

1. Providing proof of a valid driver's licence is one of the requirements to obtain a City of Edmonton driver's licence. A driver would have to inform the City if his provincial driver's licence expired during the term of a City of Edmonton driver's licence.
2. A Vehicle for Hire licence expires after the one or two year term that it was originally issued for. A driver then has to make a new application which is subject to the current regulations in place at the time. While the Vehicle for Hire Licence application form does ask if this is for a "New" licence or a "Renewal" this is only intended to flag the service advisor if there is a previous file.
3. Mr. [redacted] Vehicle for Hire Licence application appears to be incomplete; however, all of the requested information must be provided prior to issuing a licence. In this case the Agent may have realized that a licence would not be issued after looking at the police information check. In some instances the required information is typed directly into the computer after obtaining it verbally from the Applicant.

V. REBUTTAL OF APPELLANT

He reiterated that he is a family man and does not drink or do drugs. He is not a danger to the public in any way.

VI. DECISION

The committee denies the appeal and upholds the decision to refuse a City of Edmonton's Driver's Licence.

VII. REASONS

This case surrounds changes to the *Vehicle for Hire Bylaw* 17400 which were implemented in 2017. The changes include the addition of Section 33.1 to the bylaw which states:

33.1 (1) No person may drive a vehicle for hire if, during the past 10 years, the person was convicted of an offence under the Criminal Code (Canada) or the Controlled Drugs and Substances Act (Canada) that is related to the functions, duties, or business of a vehicle for hire or driver, which includes, but is not limited to:

- (a) any offence of a violent nature, including firearms and weapons offences;
- (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching;
- (c) trafficking;
- (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion, or theft; or
- (e) any offence relating to the unlawful operation of a motor vehicle.

The Appellant has made a new application for a vehicle for hire license so that he can drive a limousine. He currently has a job and is not in danger of losing that job. There is therefore no hardship being claimed as a result of the refusal of the license.

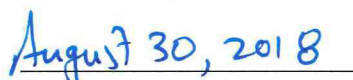
In 2013 he was convicted of dangerous operation of a motor vehicle causing bodily harm and fleeing from a police officer. As a result of those convictions his driver's license was suspended which also caused the cancellation of his vehicle for hire license. He has not driven a vehicle for hire since.

The implementation of Section 33.1 was an attempt to create some clearly defined transparent rules to ensure that citizens and visitors to Edmonton can be confident that the drivers of vehicle for hire have been properly vetted. In this way people can be confident that there is no reason to believe that a driver will somehow be a danger to the public.

While there is some disagreement on the committee as to whether to apply these rules in a similar fashion to new applicants versus renewal applicants, all three members of the committee are in agreement that when an application is made for a new vehicle for hire license, the requirements of Section 33.1 should be strictly applied. If there are any criminal convictions in the last 10 years that relate to driving a vehicle for hire, the application should be denied. Here the convictions relate to the operation of a motor vehicle which is obviously closely tied to the job duties of a vehicle for hire driver.

The license is therefore denied.


Councillor M. Banga


Date



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Decision of the Committee

Appeal of Decision to Refuse to Issue a City of Edmonton Driver's Licence Pursuant to Section 42 of the *Vehicle for Hire Bylaw 17400* City File No. 223098015-001

Hearing Date: August 16, 2018

Appellant:

I. ISSUE

Should a Driver's Licence be issued to _____ pursuant to the *Vehicle for Hire*
Bylaw 17400?

II. APPEARANCES AND EVIDENCE

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

Appellant: Mr.

Respondent: Ms. Wai Tse Ramirez, General Supervisor, Business Licensing,
Inspections and Compliance

Ms. Nancy Jacobson, City of Edmonton Law Branch

Written Submissions:

- Record and Written Submission from the Respondent

III. SUMMARY OF APPELLANT'S POSITION

Mr. [redacted] entered the industry for something different and unique. This line of work is one of a kind and no job compares to it.

He acknowledged that he has a criminal record and is not proud of it. He has paid his price to society and has done jail time. He is an honest man and would like to forget about the past instead of having it brought up again. He has learned from his mistakes and has changed quite a bit.

He has done this job for three years, has met a lot of clients and has never lost his cool. He has always called the police if things got out of hand and understands that the law is there for a reason.

The assaults were all related to his ex. He now knows that you either work things out or you move on. He confirmed that he has taken courses in anger management which have given him a real insight as to the person he was back then versus who he is today. He now thinks twice about his actions.

He was previously issued a chauffeur's licence in 2016 and again in 2017. When he applied in 2018 the licence was refused due to the new bylaw.

IV. SUMMARY OF RESPONDENT'S POSITION

Ms. Wai Tse Ramirez explained why the decision to deny Mr. [redacted] application for a vehicle for hire driver's licence is reasonable and in the public's best interest.

The Vehicle for Hire Program and associated *Vehicle for Hire Bylaw* is how the City of Edmonton regulates businesses that transport passengers in exchange for a fee. The Bylaw prohibits a person from driving a vehicle for hire if that person, during the past 10 years, was convicted of any offence under the Criminal Code that is related to the functions, duties or business of a vehicle for hire. Applications are automatically refused if the applicant's police records check shows such an offence.

The Vehicle for Hire Program is a service to the public and it is reasonable to expect greater scrutiny in order to obtain a City of Edmonton driver's licence. The public expects that licencing decisions ensure safe and reliable transportation services.

Ms. Ramirez and Ms. Jacobson provided the following responses to questions from the Committee:

1. When [redacted] came in to apply for his licence the agent who reviewed the police information check let him know the licence would be refused. Mr. [redacted] subsequently took the application form with him and contacted Ms. Ramirez to see what could be done. After speaking with her he decided to appeal the decision.
2. To their knowledge Mr. [redacted] had two previous licences and the latest application was refused due to the new bylaw changes.
3. They confirmed that effective 2020 the 2010 conviction would no longer trigger a decision of refusal. The Bylaw directs them to look at convictions in the last 10 years.

V. REBUTTAL OF APPELLANT

Mr. [redacted] takes public safety very seriously and does not treat it as a joke. He has had many clients in the past that have gotten out of hand and has had to pull his vehicle over.

There are many rules and regulations in this industry that must be complied with.

VI. DECISION

The Committee grants the appeal and a City of Edmonton Driver's Licence will be issued for one year. Written reasons to follow.

VII. REASONS

Reasons of Councillor Banga and Councillor Caterina

This case surrounds changes to the *Vehicle for Hire Bylaw* 17400 which were implemented in 2017. The changes include the addition of Section 33.1 to the bylaw which states:

33.1 (1) No person may drive a vehicle for hire if, during the past 10 years, the person was convicted of an offence under the Criminal Code (Canada) or the Controlled Drugs and Substances Act (Canada) that is related to the functions, duties, or business of a vehicle for hire or driver, which includes, but is not limited to:

- (a) any offence of a violent nature, including firearms and weapons offences;
- (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching;
- (c) trafficking;
- (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion, or theft; or
- (e) any offence relating to the unlawful operation of a motor vehicle.

As a result of the changes to the *Vehicle for Hire Bylaw* the Appellant has been denied a vehicle for hire license. Prior to the passing of the bylaw he was allowed to drive a City of Edmonton limousine for three years. When he attempted to renew his license, the renewal was denied. He has therefore lost his means to earn an income as a result. The nature of his convictions related to a domestic assault that took place in 2010.

Cancelling the license after he has been a vehicle for hire driver for three years immediately prior to the changes to the bylaw is unfair to the Appellant. This individual was able to drive a vehicle for hire prior to the passing of the new bylaw, and there is no evidence that his driving was either unsafe or resulted in any type of public interest concerns. To put it simply, prior to the passing of the bylaw he was not seen as being a danger to public safety. Just because the bylaw has been passed does not make him any more of a danger to the public.

It is unclear whether City Council intended that the changes to the bylaw were meant to act retroactively to penalize individuals that were already licensed to operate a vehicle for hire but had past criminal convictions. In our view, given this lack of clarity, reading the bylaw in a way that imposes a retroactive impact would be unfair and would have the unintended consequence of taking away licenses from those that were safely operating vehicles for hire. This creates hardship where hardship is not warranted.

Ultimately this is a case of an existing vehicle for hire driver that was simply renewing his license. The bylaw does not say it applied retroactively, and we find that it would be unfair to the appellant to suggest that it operates retroactively to take away his license. In this case fairness dictates that the license be granted.

In addition, the nature of his offense, being domestic assault, does not relate to the operation of a vehicle for hire. Just because someone has been convicted of assault does not mean that they become a danger to the public. There is simply no tie between the conviction and the operation of a vehicle for hire.

We would therefore issue the license for a one year period. During that one year it would be of assistance if City Council had a debate about amending this section to make it clear whether this section was intended to apply to renewals.



Councillor M. Banga

August 30, 2018
Date

Reasons of Councillor McKeen

I disagree with my fellow councillors on both the outcome and the interpretation of the bylaw.

Section 33.1 of the *Vehicle for Hire Bylaw* says that any conviction in the last 10 years that relates to driving a vehicle for hire means that a license will not be issued. This is to ensure public safety and to provide confidence to members of the public that they will be safe when travelling in a City of Edmonton vehicle for hire.

In 2017 City Council added Section 33.1 into the bylaw. This demonstrates City Council's intent to create transparent rules to protect the public. It is clear that one of the main purposes of Section 33.1 is to establish public confidence in the vehicle for hire system. City Council wants both citizens of the City of Edmonton, as well as visitors to our City, to have 100 percent confidence that the City will stand behind the people that are being licensed as being safe drivers at all times. This confidence will not occur if drivers are allowed to have criminal convictions that may transfer over into their work life.

I agree that the conviction has to relate to the job duties of a vehicle for hire driver. In this case that conviction does so relate. Part of the job duties include dealing with the public. The Appellant assaulted a member of the public. When an individual is prone to violence, even in their personal lives, this creates an unacceptable risk that it will transfer over into their professional lives. If he cannot hold his temper in one context, there is a good chance he will lose it in a different context. Someone that is prone to lose their temper is too much of a risk.

Councillor Banga and Caterina also appear to be concerned that the legislation did not allow drivers that already had a license and were driving to continue to do so. They would read the bylaw so that it applies to new applications only. With respect, this is rewriting the legislation which is not the role of this Committee. This Committee is bound by the way the bylaw is currently worded and there is no grandfather clause built into the current bylaw. There is nothing in the bylaw that suggests new applicants should be treated on a different basis than renewal applicants. Further, if the protection of the public is the primary goal of the change to the legislation, there would be no reason to treat them on a different basis. In fact, allowing drivers to keep their license when they have such convictions would undermine the confidence of the public in the vetting process designed to ensure overall safety.

I would therefore dismiss the appeal.



Council

Aug. 30, '18



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Decision of the Committee

Appeal of Decision to Refuse to Issue a City of Edmonton Driver's Licence Pursuant to Section 42 of the *Vehicle for Hire Bylaw 17400* City File No. 170159931-001

Hearing Date: August 16, 2018

Appellant:

I. ISSUE

Should a Driver's Licence be issued to _____ pursuant to the Vehicle for Hire Bylaw 17400?

II. APPEARANCES AND EVIDENCE

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

Appellant:

(representing the Appellant)

Respondent: Ms. Wai Tse Ramirez, General Supervisor, Business Licensing, Inspections and Compliance

Ms. Nancy Jacobson, City of Edmonton Law Branch

Written Submissions:

- Record and Written Submission from the Respondent
- Written Submission from the Appellant
- Response to Appellant's Submission

III. SUMMARY OF APPELLANT'S POSITION

Mr. _____ made a presentation on behalf of his father, Mr. _____, who was also present.

Mr. _____ recently tried to renew his Vehicle for Hire licence and was rejected because of a previous impaired driving conviction in 2012; the actual incident occurred in 2011. Mr. Mander has been driving a cab for over thirty years, is a good driver and has been completely sober since the time of his conviction.

The Appellant was driving his private vehicle at the time of the occurrence. He left a family party and drove two blocks to pick up pizza. He was charged when someone at the pizza place called police. As a result of his conviction he lost his licence for one year and had to pay a \$1,500 fine.

In December, 2013, his driver's licence was reinstated and he resumed driving a cab in 2014 after obtaining his City of Edmonton chauffeur's permit. It is detrimental to take away the only thing he knows away from him.

He is apologetic for the offence.

IV. SUMMARY OF RESPONDENT'S POSITION

Ms. Wai Tse Ramirez explained why the decision to deny Mr. _____ application for a Vehicle for Hire driver's licence is reasonable and in the public's best interest.

The Vehicle for Hire Program and associated *Vehicle for Hire Bylaw* is how the City of Edmonton regulates businesses that transport passengers in exchange for a fee. The Bylaw prohibits a person from driving a vehicle for hire if that person, during the past 10 years, was convicted of any offence under the Criminal Code that is related to the functions, duties or business of a vehicle for hire. Applications are automatically refused if the applicant's police records check shows such an offence.

The Vehicle for Hire Program is a service to the public and it is reasonable to expect greater scrutiny in order to obtain a City of Edmonton driver's licence. The public expects that licencing decisions ensure safe and reliable transportation services.

The information provided in Mr. _____ police information check raised a public interest concern as it included charges related to the operation of a motor vehicle. Mr. _____ was convicted of driving with more than 80 mg. of alcohol in his blood in 2012.

Ms. Ramirez and Ms. Jacobson provided the following responses to questions from the Committee:

1. A police records check has always been a requirement of obtaining a City of Edmonton Driver's licence; however, how to interpret this records check was left up to the discretion of the City Manager. There are cases where Applicants received a licence despite having a criminal conviction.

This illustrates why the 10 year criteria needs to be in the Bylaw. It provides directions from Council to staff and tells the public what standards of behaviour are expected from drivers and does not leave this up to the discretion of whoever is making the decision at the time.

2. The Bylaw was amended in July, 2017, to align with the new Provincial regulations. Unfortunately the change in rules has negatively impacted some people; however this must be balanced against the public interest.
3. It is the opinion of the Respondents that if a person was convicted of impaired driving in a personal vehicle it is "related to the functions, duties, or business of a vehicle for hire or driver" as per Section 33.1(1) of the *Vehicle for Hire Bylaw* 17400.

"Functions and duties" would include the act of driving and "business" would relate to receiving money and giving change.

4. The Respondents confirmed that the owner of a vehicle for hire company does not have the same restrictions imposed on them. This is likely because the driver is the one who usually has direct interaction with the public.

V. REBUTTAL OF APPELLANT

The Appellant declined the opportunity for rebuttal.

VI. DECISION

The Committee grants the appeal and a City of Edmonton Driver's Licence will be issued for one year. Written reasons to follow.

VII. REASONS

Reasons of Councillor Banga and Councillor Caterina

This case surrounds changes to the *Vehicle for Hire Bylaw* 17400 which were implemented in 2017. The changes include the addition of Section 33.1 to the bylaw which states:

33.1 (1) No person may drive a vehicle for hire if, during the past 10 years, the person was convicted of an offence under the Criminal Code (Canada) or the Controlled Drugs and Substances Act (Canada) that is related to the functions, duties, or business of a vehicle for hire or driver, which includes, but is not limited to:

- (a) any offence of a violent nature, including firearms and weapons offences;
- (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching;
- (c) trafficking;
- (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion, or theft; or
- (e) any offence relating to the unlawful operation of a motor vehicle.

This is a gentleman that has spent 25 to 30 years of his life driving taxis. It is the only thing that he knows. Then one day, over six years ago, he went to pick up a pizza for a family gathering and was convicted of being over the limit. He lost his license for a year, and as a result went into a spiral of depression. He then got his license back and started driving a cab again in 2014. The bylaw then changed, his renewal was refused, and his career has been taken away from him. He has therefore lost his means to earn an income as a result. Further, there is a chance that he will again spiral back into depression.

While vehicle for hire licensing is about ensuring public safety, there is nothing about this case that suggests this individual will be a risk to the public when driving a cab. He made a one-time mistake and paid the price by losing his license and his livelihood for a year. This was a number of years ago and he had driven a cab for a number of years without incident. When you are taking away the livelihood of an individual, you need to adhere to the highest standards of fairness. It would be unfair to read the bylaw as applying retroactively and taking away his license for a one time mistake.

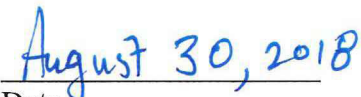
It is unclear whether City Council intended that the changes to the bylaw were meant to act retroactively to penalize individuals that were already licensed to operate a vehicle for hire but had past criminal convictions. In our view, given this lack of

clarity, reading the bylaw in a way that imposes a retroactive impact would be unfair and would have the unintended consequence of taking away licenses from those that were safely operating vehicles for hire. This case is a perfect example of how unfair that could be. The Appellant has no other means of income, may spiral into depression, but as a result of one mistake will be banned from driving for a number of years. The punishment of losing his career for up to 10 years is a greater punishment than what was handed out by the Courts. This cannot be what City Council intended.

We would therefore issue the license for a one year period. During that one year it would be of assistance if City Council had a debate about amending this section to make it clear whether this section was intended to apply to renewals.



 Councillor M. Banga



 Date

Reasons of Councillor McKeen


This is a case where I have a lot of sympathy for the Appellant as a result of his circumstances and the fact that he made a one-time mistake. However, it is our role to apply the legislation as it is written and not to modify it to suit the circumstances. Section 33.1 of the *Vehicle for Hire Bylaw* requires a license to be denied any time there is a conviction in the past 10 years that relates to driving a vehicle for hire. Here, there was a conviction for driving while being over the limit. The main job duty of a vehicle for hire driver is to drive. The conviction therefore clearly relates to the job duties.

In 2017 City Council added Section 33.1 into the bylaw. This demonstrates City Council's intent to create transparent rules to protect the public. It is clear that one of the main purposes of Section 33.1 is to establish public confidence in the vehicle for hire system. City Council wants both citizens of the City of Edmonton, as well as visitors to our City, to have 100 percent confidence that the City will stand behind the people that are being licensed as being safe drivers at all times. This confidence will not occur if drivers are allowed to have criminal convictions for things like driving over the limit

Councillor Banga and Caterina also appear to be concerned that the legislation did not allow drivers that already had a license and were driving to continue to do so. They would read the bylaw so that it applies to new applications only. With respect, this is rewriting the legislation which is not the role of this Committee. This Committee is

bound by the way the bylaw is currently worded and there is no grandfather clause built into the current bylaw. There is nothing in the bylaw that suggests new applicants should be treated on a different basis than renewal applicants. Further, if the protection of the public is the primary goal of the change to the legislation, there would be no reason to treat them on a different basis. In fact, allowing drivers to keep their license when they have such convictions would undermine the confidence of the public in the vetting process designed to ensure overall safety.

I would therefore dismiss the appeal.



Councillor S. McKeen



Date



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Decision of the Committee

Appeal of Order 283647171-001; 12006 – 65 Street NW, Edmonton, Order Pursuant to Section 545(1) of the *Municipal Government Act*

Hearing Date: August 16, 2018

Appellant:

I. ISSUE

Whether the property in question is in a nuisance condition.

II. APPEARANCES AND EVIDENCE

In dealing with the Appeal of Order 283647171-001, the Community Standards and Licence Appeal Committee (the Committee) heard from:

Appellant: _____ (not present – provided written submission)

Respondent: C. Perizzolo, Acting Coordinator, Complaints & Investigations
Citizen Services, Community Standards Branch

T. Courtoreille, Former Coordinator, Complaints & Investigations
Citizen Services, Community Standards Branch

Exhibit A: Notice to Comply dated May 29, 2018

Exhibit B: MGA Order dated June 19, 2018

Exhibit C: Photos dated June 15, 2018

Exhibit D: Photos dated August 15, 2018

III. SUMMARY OF APPELLANT'S POSITION

Mr. [redacted] did not appear in person and provided a written submission. Since the Committee has not yet reviewed Mr. [redacted] material, Mr. Ashmore, counsel for the Committee, summarized the issues that were contained in Mr. [redacted] submission:

1. Mr. [redacted] does not believe the yard is in a nuisance condition. He believes nuisance is a relative concept, depending on the neighbourhood.
2. The property in question is in a similar condition to other properties in the surrounding neighbourhood; therefore, nothing needs to be done. Photos of surrounding properties were included in Mr. [redacted] submission.
3. No one can really see into the yard due to the height of the fence.
4. Nuisance is not really clearly defined as it is being applied by the municipality.

Mr. [redacted] appears to be arguing that you need to look at the definitions of nuisance in other contexts such as criminal law or civil law to come up with a correct interpretation of nuisance.

Mr. Ashmore also answered some of the Committee's questions to provide context and attempt to get clarity on the arguments presented by the Appellant. The arguments appear similar to arguments that have made to this Committee in the past.

IV. SUMMARY OF RESPONDENT'S POSITION

On May 29, 2018, a bylaw officer attended the Montrose neighbourhood as a follow-up to a proactive education campaign conducted by Capital City Clean-up. Information and educational materials were mailed to all residents in the Montrose, Virginia Park, Eastwood and Bellevue Neighbourhoods. The pamphlets provided information regarding an upcoming big bin event on May 26 and 27, 2018, and encouraged participants to remove all untidy and unsightly material from their properties.

A bylaw officer inspected the above four neighbourhoods on May 24 and found that 57 properties were in a nuisance condition; 29 of these properties were in Montrose. After the big bin event follow-up inspections confirmed that 25 of the 29 properties in Montrose remained in a nuisance state. Notices to Comply were

issued to these properties including the Appellant's property. On May 29, 2018, the officer inspecting the Appellant's property noticed several appliances adjacent to the alley in plain view of the surrounding residents.

A follow-up visit to the site on June 15, 2018, confirmed the property was still in a state of nuisance on land as identified in Section 6 of the *Community Standards Bylaw*; in fact additional material was observed including a television, long grass and weeds. The Officer therefore issued a 545 *Municipal Government Act* Order on June 19, 2018.

Two sets of photographs taken on June 5, 2018 and August 15, 2018 show an accurate condition of the property. Administration is satisfied that the Appellant has contravened Section 6 of the Community Standards Bylaw and requests that the Order be upheld.

Mr. Courtoreille clarified that if this Order is upheld there would be a minimum of 37 days from the time the Committee serves written notice to Mr. before Community Standards can take any remedial action. This is to allow for the thirty day appeal period plus an additional 7 days for service of the written decision. After that time, if no appeal has been made, a Notice of Entry would be issued advising that Community Standards will enter the property for remedial action.

V. DECISION

The Committee upholds the Order.

You are therefore ordered to:

Remove all large appliances, washing machines, dryers, dishwashers and televisions.

Cut and maintain all unkempt, long grass and weeds throughout the property.

Also remove all debris and loose litter from the entire property, and take any action or measures necessary to remedy the unsightly condition.

VI. REASONS

The Appellant decided not to attend the hearing and instead submitted written material. This written material was reviewed in order to determine what arguments

were being made by the Appellant. It is of course difficult to fully understand the arguments without the Appellant being present.

This Committee is aware that the Appellant and his brothers have appealed many orders to this Committee. It appears that many of the issues and supporting material are similar to other appeals. However, there is an acknowledgement that each appeal needs to be determined on its own merits.

There appear to be four main arguments. First the Appellant argues that there does not appear to be a clear definition of nuisance. In support of this argument the Appellant provides textbook material defining nuisances in other contexts and suggests his property does not meet those definitions. What the Appellant fails to recognize is that the *Community Standards Bylaw 14600* provides a definition of a nuisance, and this does not have to be the same as the textbook items that he references. In the context of community standards the definition of nuisance is found in Section 6 of that bylaw which outlines a number of examples of nuisances. Two of those examples are clearly relevant here. A nuisance includes both an excessive accumulation of material (including appliances), and unkempt grass or weeds that are higher than 10 cms. While this means that to some extent, there may be some element of a nuisance which remains in the eye of the beholder, it is partly the role of this Committee to decide what is and what is not a nuisance. However, the types of things that are considered could not be clearer when looking at Section 6.

The second argument relates to whether the nuisance is visible. The photographs show a number of appliances outside the fence. These appliances are clearly visible to the public. The long grass and weeds are also clearly visible. To a great degree whether the nuisance is hidden is not relevant in this fact circumstance since it appears much of the problem is clearly visible to the public.

However to the extent that a nuisance is not easily visible, this does not automatically mean it is not a nuisance. Pests such as mice may start using high grass or appliances to nest and breed and affect the wider neighborhood whether the nuisance is visible or not. There is simply no requirement in the bylaw that the nuisance is visible in all cases. Further, neighboring property owners may be able to see into the yard even if passersby cannot.

The third argument is that there are other properties in the neighborhood that are also in bad condition so in the spirit of the neighborhood, the property is not unusual. The Committee rejects this argument. Simply because there are other properties in the area that are themselves nuisances does not make this property any less a nuisance. It may be that those other properties are also under order to remedy the nuisance, or it may be that orders will be issued in the future. Each property must be looked at on its own merits to determine whether it is a nuisance.

The last argument, which incorporates aspects of some of the other arguments, is whether the property is in fact a nuisance. This requires an examination of the photographs which clearly shows long grass and weeds and a number of appliances. It is unclear whether these appliances are in working order or are trash. This excessive accumulation of appliances/trash, along with the long grass and weeds means this property clearly meets the definitions set out in the bylaw. The Committee finds that the property is in fact a nuisance in accordance with the definitions in the bylaw. In general, this property does not meet the standards that a City of Edmonton property owner should be encouraged to meet.

The order is therefore upheld.



Councillor M. Banga

August 30, 2018

Date



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Decision of the Committee

Appeal of Order 231054324-003; 12748 – Fort Road NW, Edmonton, Order Pursuant to Section 545(1) of the *Municipal Government Act*

Hearing Date: August 16, 2018

**Appellant: 2089093 Alberta Ltd./Victor
Heimish, Director**

I. ISSUE

Whether the property in question is in a nuisance condition.

II. APPEARANCES AND EVIDENCE

In dealing with the Appeal of Order 231054324-003, the Community Standards and Licence Appeal Committee (the Committee) heard from:

Appellant: Luke Policella agent for Victor Heimish, Owner / Director of
2089093 Alberta Ltd.
Todd Bertsch, Architectural Representative

Written Submission from the Appellant

Respondent: T. Courterille, Former Coordinator, Complaints & Investigations
Community Standards Branch, Citizen Services
J. Amerongen, Building Compliance Officer, Complaints &
Investigations, Citizen Services

Exhibit A: MGA Order 231054324-003 dated June 21, 2018
Exhibit B: Photos dated July 6, 2015
Exhibit C: Photos dated June 19, 2018
Exhibit D: Photos dated August 15, 2018

III. SUMMARY OF APPELLANT'S POSITION

Mr. L. Policella and Mr. T. Bertsch appeared on behalf of 2089093 Alberta Ltd.

Mr. Policella provided a brief history of the subject property. The building dates back to 1912 and they believe it has some heritage significance. It is one of the few original buildings remaining on Fort Road and was the first hospital in North Edmonton as well as a former police station.

While they are prepared to demolish the building, their preference would be to obtain historical designation and keep the front facade and the two sides of the original building. The interior would be completely gutted and rebuilt in accordance with the current building codes. It does not make any sense to perform the work outlined on the Order until they know if the building will receive historical designation.

Delays in pursuing heritage designation have resulted due to the illness of the former property owner as well as a change in urban planners / architects. The former urban planner, Mr. B. Trudeau, still has some of the required documents in his possession. The Appellants referred to their written submission which shows the front and rear view of the property, a Land Title Certificate showing the Corporation as the registered owner as of March 19, 2018, and e-mail correspondence between Mr. B. Trudeau, and Mr. D. Johnston, Heritage Planner with the City of Edmonton. Mr. Johnston had previously viewed the building and seemed receptive to having it put on the historic registry.

The current architect, Mr. T. Bertsch, is ready to proceed with pursuing historical designation as early as next week and the Appellants are willing to take some interim measures to make the property less of an eyesore and to ensure there are no safety issues to the public.

They confirmed that one bay is still being used and is open to the public. They would prefer to keep the garage, which was built in the 1940's.

IV. SUMMARY OF RESPONDENT'S POSITION

Mr. Courtoreille confirmed that this building is on the historical inventory and was constructed in 1912. It has housed a hospital, police station as well as several different commercial businesses in the past. It is one of the few remaining buildings on Fort Road of wood frame construction.

This location has been under investigation since 2015 by the Building Officer Compliance Program, a council approved program tasked with mitigating complaints with regards to vacant and derelict commercial structures. At the time of the initial investigation unpainted and untreated wood surfaces, separated and damaged eaves troughs, roof

damage, and a garage that likely needs demolition were observed. The building's condition is also of concern to the Fort Road Business Association.

Recognizing that this building is on the City's historical inventory an attempt was made to get voluntary compliance from the previous owner. Subsequently several tickets and a remediation order were issued in 2016. As a result the former Owner decided to re-invest in the location and started a small antique and bicycle shop in 2016. This business closed in October, 2017, due to the owner's illness and the business licence expired last year. No meaningful repair work was ever done.

A follow-up inspection in June, 2018, showed the property had been sold to a numbered company and the new owner indicated he was interested in pursuing historical status with the City but no formal application has been made.

With the ongoing complaints, previous investigation history and a desire for progress from the Fort Road Business Association a 545 *Municipal Government Act* Order was issued on June 21, 2018 for failing to comply with Section 9(1) of the *Community Standards Bylaw*.

Three sets of photographs taken on July 6, 2015, June 19, 2018 and August 15, 2018 show an accurate condition of the building. Administration is satisfied that the Appellant has contravened Section 9(1) of the Community Standards Bylaw and that the building is in a severe nuisance state and shows a serious disregard for general maintenance and / or upkeep. Administration asks that the Order be upheld.

Mr. Courterille and Mr. Amerongen provided the following responses to questions from the Committee:

1. If an extension of the Order were to be granted they would like a condition to be included that a formal application for historical designation be made within 30 days and they would also like to see a construction schedule in place, going forward, to be approved by the City's heritage planning office.
2. They also request the owners hire an engineer to provide a report on the viability of preserving the building and that copies of this report be provided to the applicable City parties.
3. While they have not personally been inside of the building their understanding is that the inside is in a very poor state and likely uninhabitable. In Mr. Amerongen's experience foundations in buildings of this age are often crumbling.
4. While the building may not be in imminent danger of collapsing the photos show that there is a bow in the front facade.

V. REBUTTAL OF THE APPELLANT

Mr. Policella is not an owner but has been acting as an agent for the previous owner as well as the current owner. There has been no communication between the City and the new owner at all.

The current owner would be in a financial position to proceed with the restoration if the project is deemed to be feasible. The Respondents are willing to hire an engineer within a month to provide a preliminary report as to whether or not the building is worth salvaging and would provide copies of this report to the applicable City parties.

They are also willing to proceed with a formal application for heritage designation within 30 days. They anticipate it would take six months to a year for work to proceed after official designation.

VI. DECISION

The Committee postpones the hearing of this matter to October 18, 2018.

The following items are to be completed prior to the October 18, 2018 hearing:

1. Obtain an engineer's report and provide copies of this report to T. Courtoreille / J. Amerongen and to D. Johnston, Heritage Planner.
2. Submit a formal application for heritage designation.

VII. REASONS

This case involves a complicated set of facts where the owner wants to have the property given heritage property status and redeveloped. The City, while not against either the heritage designation or the redevelopment, simply wants things to move along faster so that the nuisance condition associated with the building can be remedied. At this time there has been no application for heritage designation, no rezoning application, and no engineers report to say whether the building is structurally sound or is about to fall down. To complicate matters no one is sure how taking any of the steps in the Order could impact the heritage designation process.

The thing that is of paramount importance to this committee is that the building does not collapse and cause damage or injuries to other members of the public. While it would be nice to preserve the building, this can only be done if it is structurally sound.

The first two steps in this process seem to be to get an engineering report and to start the designation process. The engineering report will show whether the building can be saved and the application for designation will get things moving and will ultimately allow us to figure out what can be done to the property without affecting potential heritage status.

This hearing is therefore postponed to allow those two things to be done. The hearing will be postponed to October 18, 2018. Before that date the Appellant has agreed to obtain an engineer's report about the soundness of the structure and to commence the designation process. The Appellant will provide a copy of the engineering report to the City once it is available, and will also inform the Respondents once the heritage designation process has commenced.


Councillor M. Banga

August 30, 2018
Date



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Decision of the Committee

**Appeal of Debt Recovery Invoice 37932984 – - Weed Mowing at
1313 – 162 Street SW.**

Hearing Date: August 16, 2018

Appellant:

I. ISSUE

Should the debt recovery notice be cancelled and the appeal fee in the amount of \$500.00 be returned?

II. APPEARANCES AND EVIDENCE

In dealing with the Appeal of Debt Recovery Invoice 37932984, the Community Standards and Licence Appeal Committee (the Committee) heard from:

Appellants:

Respondent: C. Perizzolo, Acting Coordinator, Complaints & Investigations
Citizen Services, Community Standards Branch
T. Courterille, Former Coordinator, Complaints & Investigations
Citizen Services, Community Standards Branch

Exhibit A: Local Authority Notice dated June 25, 2018

Exhibit B: Photos dated July 15, 2018

Exhibit C: Before and after Photos taken July 20, 2018

Exhibit D: Think Green Alberta Invoice dated July 23, 2018

Exhibit E: City of Edmonton Invoice dated July 24, 2018

III. SUMMARY OF APPELLANT'S POSITION

Ms. [redacted] advised she is here to appeal a fine she received regarding weeds on her property.

The property owners cleaned up all the weeds on their property the day after receiving the warning letter and were surprised to get a fine in the amount of \$325.61 approximately two weeks later. They then realized that the fine was likely for the weeds on the two foot wide strip of property between the alley and their fence. They did not realize that the weeds at this location were their responsibility.

The warning letter, which she no longer has, did not specify the location of the weeds in question otherwise they would have taken care of them. They intend to take care of this area going forward.

IV. SUMMARY OF RESPONDENT'S POSITION

Ms. Perizzolo reviewed the following timeline of events:

- June 25, 2018: A weed inspector attended the property on proactive patrol and found Scentless Chamomile and White Cockle on the south side of the property, adjacent to the alley. These are classified as noxious weeds under the *Alberta Weed Control Act*.
- June 26, 2018: A Local Authority Notice was mailed to the property owner providing the location and type of weeds that needed to be controlled with 12 days being allotted for compliance.
- July 13, 2018: During a follow-up inspection the inspector observed Canada Thistle and Perennial Sow Thistle (also listed as noxious weeds) in addition to the Scentless Chamomile and White Cockle.
- July 17, 2018: Pursuant to Section 18 of the *Alberta Weed Control Act* remedial action was arranged through the City's approved contractor service.
- July 20, 2018: The contractor attended the property and cut and bagged all of the weeds on the side flankage. Before and after photos were taken and Invoice No. 53979 was sent to the City of Edmonton in the amount of \$267.16 for this work. This is a typical fee and is based on square footage and the number of bags required to be raked.

July 24, 2018: The City of Edmonton, Corporate Billing and Accounts Receivable, invoiced the property owner in the amount of \$325.61. This included the \$267.16 billed by the contractor plus an administration fee of \$58.45.

Two sets of photographs dated July 13, 2018 (taken by the inspector) and July 20, 2018 (the contractor's before and after photos) have been provided.

Ms. Perizzolo referred to the legislation which requires property owners to control weeds on their property (Section 2 of the *Alberta Weed Control Act* and Schedule 2 of the *Alberta Weed Regulation*) and Section 21 of the *Alberta Weed Control Act* which provides the authority to send notice and recover costs.

Based on the above information Administration is satisfied that Section 2 of the *Alberta Weed Control Act* was contravened and asks that this appeal be denied.

V. REBUTTAL

Ms. admitted that they didn't read the notice thoroughly and assumed it was for the weeds inside the fence on their property. From now on they will be maintaining the area in question as well.

She confirmed that she paid an appeal fee of \$500.00. While she understands that there were costs associated with performing the work the amount seems excessive, especially since they are diligent about maintaining their property and simply made a wrong assumption. She feels a reduction in the fee would be appropriate.

VI. DECISION

The Committee varies the invoice to \$267.16 and the \$500.00 appeal fee will be refunded.

VII. REASONS

This is the appeal of a Debt Recovery Notice in the amount of \$325.61. This work relates to cleaning weeds out of a portion of land outside of the Appellant's fence next to the alley. The Appellant states that when she got the notice they cleaned the weeds out of their yard but did not realize the notice was about weeds along the alley. She therefore asserts that the amount of the charges are unreasonable and unnecessary.

The Local Authority Notice indicates the location of the weeds as being at the fence along the alley. The notice also mentions that this includes the portion of land between the

property line and the center line of the highway. The notice is therefore clear as to the location of the weeds. The Appellant also honestly admitted that they may not have read the Local Authority Notice as carefully as they should.

According to the evidence, the amount of the charges is in accordance with other City contracts. This included bagging the weeds which would have taken some time. The amounts are not unreasonable.

Despite these findings, in this unique fact circumstance, the Committee will reduce the invoice to \$267.16 to remove the administration fee. This is to take into account that the Appellant is young, in her first home, and thought she was complying with the order when she removed weeds from other areas of the yard.

In addition, the Committee finds that the \$500 filing fee should be returned. The amount of the appeal fee, which is provincially set, is out of line with what makes sense in this fact circumstance.



Councillor M. Banga

August 30, 2018
Date



COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

MINUTES (Draft)

August 16, 2018 – Churchill Building

PRESENT

M. Banga, S. McKeen, T. Caterina

ALSO IN ATTENDANCE

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

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3.1	Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to P. T. (225276549-001)	2	Granted
3.2	Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to A. M. (286148259-001)	3	Refused
3.3	Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to F. F. (223098015-001)	4	Granted
3.4	Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to B. M. (170159931-001)	4	Granted
3.5	Appeal of Order - M. B., 12006 - 65 Street NW Edmonton, AB, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i> .	5	Order Upheld
3.6	Appeal of Order - 2089093 Alberta Ltd., 12748 - Fort Road NW, Edmonton, AB, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i> .	6	Postponement

3.7	Appeal of Order - E. R., 11223 - 86 Street NW, Edmonton, AB, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i> .	7	Withdrawn
3.8	Appeal of Debt Recovery Invoice 37932984 - Weed Mowing - K. P.	7	Varied
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DECISION SUMMARY

ITEM		DECISION
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1. CALL TO ORDER AND RELATED BUSINESS

1.1 Call to Order

M. Banga called the meeting to order at 9:39 a.m.

1.2 [Adoption of Agenda](#)

Moved S. McKeen:

That the August 16, 2018, Community Standards and Licence Appeal Committee meeting agenda be adopted.	
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In Favour:

M. Banga, S. McKeen, T. Caterina

Carried

1.3 [Adoption of Minutes](#)

Moved T. Caterina:

That the July 12, 2018, Community Standards and Licence Appeal Committee meeting minutes be adopted.	
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In Favour:

M. Banga, S. McKeen, T. Caterina

Carried

2. [EXPLANATION OF APPEAL HEARING PROCESS](#)

M. Banga 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 Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to P. Thakur \(225276549-001\)](#)

P. T., Appellant made a presentation and answered the Committee's questions.

W. T. Ramirez, General Supervisor, Business Licensing, Inspections and Compliance made a presentation and answered the Committee's questions. N. Jacobson, Law Branch, answered the Committee's questions.

The Committee met in private at 10:19 a.m. pursuant to Section 20 (Disclosure harmful to law enforcement) of the *Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 11:10 a.m.

Moved M. Banga:

The Committee grants the appeal and a City of Edmonton Driver's Licence will be issued for one year. Written reasons to follow.	Business Licensing and Vehicle For Hire
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In Favour:

M. Banga, T. Caterina

Carried

Opposed:

S. McKeen

3.2 [Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to A. M. \(286148259-001\)](#)

A. M. made a presentation and answered the Committee's questions.

W. T. Ramirez, General Supervisor, Business Licensing, Inspections and Compliance made a presentation and answered the Committee's questions.

N. Jacobson, Law Branch, answered the Committee's questions.

The Committee met in private at 11:31 a.m., pursuant to section 20 (Disclosure harmful to law enforcement) of the *Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 11:43 a.m.

Moved S. McKeen:

The Committee denies the appeal. Written reasons to follow.	Business Licensing and Vehicle for Hire
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In Favour:

Carried

M. Banga, S. McKeen, T. Caterina

3.3 [Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to F. F. \(223098015-001\)](#)

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

W. T. Ramirez, General Supervisor, Business Licensing, Inspections and Compliance made a presentation and answered the Committee's questions.

N. Jacobson, Law Branch, answered the Committee's questions.

The Committee met in private at 12:01 p.m. pursuant to Section 20 (Disclosure harmful to law enforcement) of the *Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 12:16 p.m.

Moved T. Caterina:

The Committee grants the appeal and a City of Edmonton Driver's Licence will be issued for one year. Written reasons to follow.	Business Licensing and Vehicle for Hire
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In Favour:

Carried

M. Banga, T. Caterina

Opposed:

S. McKeen

3.4 [Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to B.M. \(170159931-001\)](#)

V. M. made a presentation on behalf of B. M., the Appellant, who was also present. V. M. and B. M. answered the Committee's questions.

W. T. Ramirez, General Supervisor, Business Licensing, Inspections and Compliance made a presentation and

answered the Committee's questions.

N. Jacobson, Law Branch, answered the Committee's questions.

The Committee met in private at 1:55 p.m., pursuant to section 20 (Disclosure harmful to law enforcement) of the *Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 2:00 p.m.

Moved T. Caterina:

The Committee grants the appeal and a City of Edmonton Driver's Licence will be issued for one year. Written reasons to follow.	Business Licensing and Vehicle for Hire
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In Favour:

M. Banga, T. Caterina

Carried

Opposed:

S. McKeen

3.5

[Appeal of Order - M. B. - 12006 - 65 Street NW, Edmonton, Alberta, Order Pursuant to Section 545\(1\) of the *Municipal Government Act*.](#)

C. Ashmore advised the Committee that M. B., the Appellant, was not in attendance and had provided a written presentation.

Moved T. Caterina:

That Item 3.5 be moved to the last item of today's Agenda

In Favour:

M. Banga, T. Caterina, S. McKeen

Carried

C. Ashmore, Law Branch, provided a summary of the material contained in Mr. B's written submission and answered the Committee's questions.

C. Perizzolo, General Enforcement Coordinator, complaints and Investigations, made a presentation and answered the Committee's questions.

T. Courtoreille, former General Enforcement Coordinator, Complaints and Investigations, answered the Committee's questions.

Photographs taken on June 15, 2018, and August 15, 2018, were provided to the members of the Committee and

the Office of the City Clerk.

Moved T. Caterina:

<p>The Committee upholds the Order.</p> <p>You are therefore ordered to Remove all large appliances, washing machines, dryers, dishwashers and televisions.</p> <p>Cut and maintain all unkempt, long grass and weeds throughout the property.</p> <p>Also remove all debris and loose litter from the entire property, and take any action or measures necessary to remedy the unsightly condition.</p>	<p>Citizen Services Dept.</p> <p>Due Date: July 12, 2018</p>
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In Favour:

Carried

M. Banga, S. McKeen, T. Caterina

3.6

[Appeal of Order - 2089093 Alberta Ltd., 12748 - Fort Road NW, Edmonton, Alberta, Order Pursuant to Section 545\(1\) of the Municipal Government Act.](#)

M. Banga 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.

L. P. appeared on behalf of 2089093 Alberta Ltd. He was accompanied by T. B., the corporation's architectural representative. L. P. and T. B. made a presentation and answered the Committee's questions.

T. Courtoreille, former General Enforcement Coordinator, Complaints and Investigations, Citizen Services, and J. Amerongen, Citizen Services, made a presentation and answered the Committee's questions.

Photographs taken on July 6, 2015, June 19, 2018 and August 15, 2018, were provided to the Appellant, members of the Committee and the Office of the City Clerk.

C. Ashmore, Law Branch, provided information and answered the Committee's questions.

Moved T. Caterina:

<p>The Committee postpones the hearing of this matter to October 18, 2018.</p> <p>The following items are to be completed</p>	<p>Citizen Services Dept.</p>
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<p>prior to the October 18, 2018 hearing:</p> <ol style="list-style-type: none"> 1. Obtain an engineer's report and provide copies of this report to T. Courtoreille / J. Amerongen and to D. Johnston, Heritage Planner. 2. Submit a formal application for heritage designation. 	<p>Due Date: October 18, 2018</p>
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In Favour:

Carried

M. Banga, S. McKeen, T. Caterina

3.7 [Appeal of Order - E. R., 11223 - 86 Street NW, Edmonton, Alberta, Order Pursuant to Section 546\(1\)\(c\) of the *Municipal Government Act*.](#)

The Committee was advised that Administration has withdrawn Municipal Government Act Order 176747649-001 and will be pursuing this matter at a later date.

3.8 [Appeal of Debt Recovery Invoice 37932984 - Weed Mowing – K.P.](#)

K. P. made a presentation and answered the Committee's questions.

C. Perizzolo, General Enforcement Coordinator, Complaints and Investigations, made a presentation and answered the Committee's questions.

Copies of the following documents were provided to the Appellant, members of the Committee and the Office of the City Clerk:

- Local Authority Notice dated June 25, 2018
- Photographs taken on July 13, 2018, and July 20, 2018
- A copy of the contractor's Invoice dated July 23, 2018
- A copy of the debt recovery invoice 37932984

T. Courtoreille, former General Enforcement Coordinator, Complaints and Investigations, answered the Committee's questions.

C. Ashmore, Law Branch, provided information to the Committee.

The Committee met in private at 3:35 p.m. pursuant to Sections 20 (Disclosure harmful to law enforcement) of the *Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 3:30 p.m.

Moved S. McKeen:

The Committee varies the invoice to \$267.16 and the \$500.00 appeal fee will be refunded.	
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In Favour:

Carried

M. Banga, S. McKeen, T. Caterina

4. ADJOURNMENT

The meeting was adjourned at 4:04 p.m.

Chair

City Clerk