1. SHOW CAUSE HEARING: Jakov Ojvan, A1 Siding & Windows (Niagara) Ltd., located at 18 Parkview Drive, Thorold, Ontario, L2Y 4Z1 - City of Hamilton Contractor, Building Repair Licence (No. 15-287872/15-285237 CL) (Item 4.2)

(Collins/B. Johnson)
That the City of Hamilton Contractor, Building Repair Licence No. 15-287872/15-285237 CL for A1 Siding & Windows (Niagara) Ltd., issued to Jakov Ojvan, be suspended effective immediately for a period of three months of the date from this Decision.

CARRIED

(Collins/Green)
That the request for an adjournment of the Show Cause Hearing, submitted on behalf of Mr. Jaspal Gill, who leases owner plates in his own name or as 1826548 Ontario Inc. or 1830259 Ontario Inc., respecting the City of Hamilton Taxicab Driver Licence No. 15-127511, be approved to the Tribunal date of October 29, 2015 on a peremptory basis on the Appellant, with the following conditions:

(i) That, in the interest of public safety, the City of Hamilton Taxicab Driver Licence No. 15-127511 issued to Mr. Jaspal Gill be suspended effective immediately until such time as a Decision has been issued by the Hamilton Licensing Tribunal respecting this matter; and,

(ii) That, in the interest of public safety, all forty-eight (48) vehicles bearing City of Hamilton taxicab plates leased by Jaspal Gill, 1826548 Ontario Inc. and 1830259 Ontario Inc., cease to be operated by Jaspal Gill, 1826548 Ontario Inc. and 1830259 Ontario Inc. as the lessees within 24 hours of the date of this Interim Decision.

CARRIED

FOR THE INFORMATION OF THE TRIBUNAL:

(a) **APPROVAL OF AGENDA** (Item 1)

(i) September 29, 2015

(Duvall/B. Johnson)
That the Agenda of the September 29, 2015 Hamilton Licensing Tribunal be approved, as presented.

CARRIED

(b) **DECLARATIONS OF INTEREST** (Item 2)

There were no declarations of interest.

(c) **APPROVAL OF MINUTES OF PREVIOUS MEETINGS** (Item 3)

(i) August 17, 2015 (Item 3.1)

(Duvall/B. Johnson)
That the Minutes of the August 17, 2015 Hamilton Licensing Tribunal be approved, as presented.

CARRIED
APPEAL HEARING:  Tracie Daigle, Chair of the Board of Directors,  ACFO Regionale Hamilton, respecting Refusal of Lottery Licence Extension-Break Open Ticket Licence (No. M727904)  (Item 4.1)

On March 24, 2015 the Issuer of Licences corresponded with the Legislative Coordinator for the Hamilton Licensing Tribunal, indicating that the above referenced license be refused and a license not be issued with opportunity for the appellant to request a hearing before the Hamilton Licensing Tribunal.

In accordance with City of Hamilton Lottery Licensing By-Law 05-051, the request for extension of the above-noted licence is refused and a licence will not be issued based on the following grounds. In accordance with Section 6 (1)(b)(iv) of City of Hamilton Licensing By-Law 15-015, the Issuer of Licences may suspend, cancel or refuse to issue a licence where an applicant or licensee fails to submit financial reports or other information in accordance with the Issuer of Licences or the Registrars' requirements.

City of Hamilton By-Law 15-015, Section 12 (f) states that licensee obligations are to, "provide copies of the Lottery Trust Account Bank Statements and cancelled cheques from such accounts to the issuer of Licences with 30 days of each month’s end”. Records indicate that your organization frequently does not send statements without receiving several notices. Due to this, it has been determined that the Association Canadienne-Francaise has a history of non-compliance. An extension for license M727904 has been denied.

A request for hearing before the Hamilton Licensing Tribunal was not received within thirty days – the timeline for filing a request to the Office of the City Clerk. Ms. Daigle’s Request of Appeal, submitted on behalf of ACFO Regionale Hamilton, was instead sent to the Municipal Licensing Enforcement Office with a cheque enclosed for the hearing fee and within the timelines required under By-law 07-170. In considering the misrouting of this information and correspondence dated April 22, 2015, the appellant’s request for an extension of appeal period was granted for the September 29, 2015 Tribunal meeting.

September 29, 2015 Hearing:

Mr. Lawrie provided his Opening Statement that included, but was not limited to, the following:

- Mr. Lawrie advised that Mr. Skrobos, on behalf of the ACFO Regionale Hamilton, is before the Tribunal today as a result of denial of an extension for their Break Open Ticket Licence, by an additional year by the City of Hamilton Lottery Licensing Office.

- Mr. Lawrie indicated that the reason for the refusal of an extension of its current licence is due to the fact that the ACFO Regionale Hamilton was not operating legally. Instead, the Lottery Licensing Office requested that
they apply for a new licence, at which time conditions could be added to this new licence.

- With its current licence, the ACFO failed to provide monthly financial statements when due and even when requested by the Lottery Licensing Office, there was no response with respect to submitting such statements.

- In addition, the ACFO did not have a place to sell the lottery tickets as required under City of Hamilton Lottery Licensing By-laws 04-134 and 15-051

- On April 22, 2015, the ACFO sent a Request for Appeal Hearing relating to the Lottery Licensing Office’s refusal for an extension.

When asked by the Tribunal, Mr. Sebastien Skrobos, Development Coordinator – ACFO, advised that he is representing ACFO Regionale Hamilton on behalf of Ms. Tracie Daigle, Chair of the Board – ACFO, and confirmed that he would not be using legal counsel and would be representing himself.

Mr. Sebastien Skrobos’ Opening Statement included, but was not limited to, the following:

- Inability to comply had been linked to circumstances of the organization, including: loss of funding; forced office re-location; and a change in contact at the City of Hamilton.

- When asked, representatives had always provided statements to the City of Hamilton.

- The ACFO has implemented new processes and improvements to ensure that bank statements are submitted. In the past where statements were requested by the City but not submitted by ACFO, reasons were largely due to persons with access to the organization’s finances being away, including building houses in Haiti.

- ACFO is now re-organized and now able to comply.

Mr. Lawrie submitted the following exhibits for the record and provided an overview of the same:

**Exhibits:**

1. Refusal of Licence Extension to Association Canadienne-Fraçaïse (ACFO) dated March 24, 2015
3. Request for Licensing Tribunal Hearing from ACFO with copy of cheque for hearing fee dated April 22, 2015
5. Hearing Notification to AFCO dated August 28, 2015
6. Alcohol and Gaming Commission of Ontario (AGCO) Lottery Licence #M727904 expiry March 17, 2015
7. AGCO Lottery Licence Application package.
8. Bank Statements for 2015
10. Bank Statements for 2013
11. Email thread between Lottery Licensing Officer Melissa Tulloch and ACFO
12. Historical emails between Lottery Licensing Officer Margaret Vize and ACFO
13. AGCO Terms and Condition for Break Open Ticket Licence
14. City of Hamilton Lottery Licensing By-Law 04-134

The Tribunal asked questions that included, but were not limited to, the following:

- Why had it been so difficult to submit your financial statements? Mr. Skrobos advised that the Board which represents ACFO only has two members with access to banking.

In closing, Mr. Lawrie’s comments included, but were not limited to, the following:

- Given that no extension can be offered at this time due to the fact that the Alcohol and Gaming Commission of Ontario does not allow extensions on expired licences, the City is recommending that the ACFO apply for a new licence and pay all related fees.

- The Issuer of Licences expects that ACFO will provide monthly statements on time and in full, with proof of a legal retail location, and comply to all other licensing by-laws. Failure to do so would result in the immediate suspension of the new licence for a period of 6 months without having the opportunity to return to the Tribunal.

In closing, Mr. Skrobos’ comments included, but were not limited to, the following:

- ACFO understands and accepts what is before them but had not been aware that they could not appeal the denial of an extension respecting an expired licence. The ACFO has paid the $137.00 Appeal Fee but acknowledged that the monies paid are significant for an organization of this type.

- ACFO expects to apply for a new licence as per the direction of the Lottery Licensing Office.
Having considered the submissions of the parties, the Tribunal received the information. The Appellant was advised that since the Licence is expired and an extension cannot be granted, they may wish to submit an application for a new licence, peremptory on the appellant.

(d) SHOW CAUSE HEARING: Jakov Ojvan, A1 Siding & Windows (Niagara) Ltd., located at 18 Parkview Drive, Thorold, Ontario, L2Y 4Z1 - City of Hamilton Contractor, Building Repair Licence (No. 15-287872/15-285237 CL) (Item 4.2)

On June 1, 2015, the Issuer of Licences corresponded with the Legislative Coordinator for the Hamilton Licensing Tribunal, requesting that a Show Cause hearing be scheduled and brought before the Hamilton Licensing Tribunal to consider whether the above referenced licence should be revoked, suspended or conditions imposed upon it.

Pursuant to Section 12(1) of the General Provisions of the City of Hamilton Licensing By-Law 07-170, as amended, it is my intention to request that a Show Cause Hearing be scheduled on August 17, 2015 and brought before the Hamilton Licensing Tribunal to consider whether the above referenced licence should be revoked or suspended or conditions imposed.

Pursuant to Section 8 of the Statutory Powers Procedure Act, R.S.O.1990, c. S22 the grounds for revocation or suspension or the imposition of conditions at this hearing are: City of Hamilton Licensing By-Law 07-170, Schedule 29, Section 45(1):

"When the building repairs master whose name appears on a building repairs contractor's licence certificate is no longer regularly employed and responsible for the work, the contractor shall within three days notify the Issuer of Licences, in writing, with the name and address of the master who will thenceforward be in charge, or with particulars of his or her arrangements pending the engaging of a master to be in charge."

Namely,
Jakov Ojvan

The licence expires on September 19, 2015. If the hearing has not been completed before the licence expires and:

- the licence holder has not submitted a completed application for a renewal, then we will request that the hearing be cancelled. If this is the case and the licence holder keeps operating without a licence, they will be doing so contrary to the Licensing By-law; or,

- the licence holder has submitted a completed application for a renewal, then we will request that the hearing proceed under Section 12(1) of the Licensing
By-law as a refusal of the licence rather than as a recommendation to revoke or suspend the licence.

At the August 17, 2015 Hearing, the Hamilton Licensing Tribunal issued the following Interim Decision respecting the matter above:

(a) That the request for first adjournment of the Show Cause Hearing submitted by Jakov Ojvan, A1 Siding & Windows (Niagara) Ltd., located at 18 Parkview Drive, Thorold, Ontario, - City of Hamilton Contractor, Building Repair Licence 14-285237 CL, be approved to the next Tribunal date of September 29, 2015, on a peremptory basis on the Appellant; and

(b) That the City of Hamilton Contractor, Building Repair Licence 14-285237 CL, for A1 Siding & Windows (Niagara) Ltd., issued to Jakov Ojvan, be suspended effective immediately until such time as a decision has been issued by the Hamilton Licensing Tribunal respecting this matter.

On August 20, 2015, a Decision Letter was issued to Mr. Jakov Ojvan via Registered Mail respecting the above by the Office of the City Clerk.

On August 28, 2015, a Notice of Show Cause Hearing Letter was issued to Mr. Jakov Ojvan via Registered Mail for the September 29, 2015 Hamilton Licensing Tribunal Hearing by the Office of the City Clerk. However, it was noted that City of Hamilton Contractor, Building Repair Licence 14-285237 CL, issued to Mr. Jakov Ojvan and suspended as per the August 17, 2015 Tribunal Decision, was set for expiry on September 19, 2015.

On September 15, 2015, Mr. Jakov Ojvan attended the MLE Office, applied for a new City of Hamilton Contractor, Building Repair Licence and was subsequently issued Licence No. 15-287872.

On September 23, 2015, the Issuer of Licenses corresponded with the Appellant via hand-delivered Letter to inform them that the licence had been issued in error and that City of Hamilton Contractor, Building Repair Licence 14-285237, was suspended. Thus, the Letter included direction to surrender City of Hamilton Contractor, Building Repair Licence 15-287872, as said Licence had been suspended by the Hamilton Tribunal Decision on August 17, 2015.

September 29, 2015 Hearing:

Mr. Lawrie provided his Opening Statement that included, but was not limited to, the following:

- Mr. Lawrie advised that Mr. Ojvan is before the Tribunal today as a result of operating the business without a Master Licence Holder, initially scheduled for the August 17, 2015 Hearing.
MLE had been advised by Mr. John Ivezic, that he is no longer a Master Licence holder for A1 Siding & Windows (Niagara) Ltd., which ultimately meant that the business would be without a Master Licence Holder.

After attempts to correspond with the appellant including a letter sent on December 19, 2014 requesting that Mr. Ojvan advise as to the status of acquiring a new Master Licence holder no later than January 9, 2015, MLE did not receive confirmation of this information.

Mr. Lawrie indicated that a City of Hamilton contractor business operating without a Master Licence Holder is in violation of Schedule 29, Section 45(1) of City of Hamilton Licensing By-Law 07-170, as amended, and operating without such poses a risk to consumers and the overall protection of public safety.

In addition, staff have concern with respect to integrity and how Mr. Jakov Ojvan went about the licence process on September 15, 2015 – requesting a new licence versus renewing his current licence - and as such, believe that misrepresentation had occurred.

Mr. Jakov Ojvan provided his Opening Statement that included, but was not limited to, the following:

- Business is 97 per cent new construction, with the remaining 3 per cent being side jobs and renovations where a licence is required.

- Our Master Licence Holder, John Ivezic, was supposed to come back to work for us but we were later advised that he was not returning.

- As owner of the company I then took action and decided to write a test to become the Master Licence Holder, which took place on September 17, 2015.

- Arrived at MLE Office to pick up Licence and they provided him with a Contractor Licence as well. When contacted by MLE staff, Mr. Ojvan advised that he had immediately returned the licence.

Mr. Jakov Ojvan was solemnly affirmed, prior to providing his testimony.

Mr. Lawrie submitted the following Exhibits for the record and provided an overview of the same:

**Exhibits**

1. Letter to Jakov Ojvan regarding Master Licence Holder dated December 19, 2014
2. Request for Hearing Letter dated June 1, 2015
3. Notice of Show Cause Hearing with proof of service, dated June 17, 2015
5. Certificate of Incorporation dated February 12, 2010
7. Niagara Regional Police Service, Police Criminal Record Check dated September 16, 2013
11. Email from John Ivezic to John Lane, Manager, Building Inspections dated December 16, 2014
12. Complete License Application, Trade Licence, Building Repair, Master dated July 26 2013

Two additional submissions (respecting a New Licence Application dated September 15, 2015) were entered and then later withdrawn at the request of Mr. Lawrie.

The Tribunal asked questions that included, but were not limited to, the following:

- Is this suspension related to not having a Master Licence Holder? Mr. Lawrie advised that this is correct and that an operator requires both a Contractor Licence and Master Licence Holder.

- When did you obtain your Master Contractor Licence? Mr. Ojvan advised that he had successfully passed the exam on September 17, 2015 and added that the MLE Office provided him with both licences when he attended the Office.

- Why had you not responded to notifications from the City respecting this matter? Do you understand the seriousness of this matter? Mr. Ojvan advised that he understands the seriousness of the matter and responded when required.

- Can you explain in your opening statement what you mean when you are concerned about Mr. Ojvan’s ability to operate with integrity given how he went about the application process? Specifically, how is to the City’s belief whereby he may perform business in a similar fashion? Mr. Lawrie advised that staff are concerned about the way Mr. Ojvan misled staff and misrepresented, giving reason to believe that integrity could be a concern in light of the need for consumer protection.
• What are the costs between a licence renewal application and an application for a new licence? Mr. Lawrie advised that a renewal application is less money.

• Given that a new application is more than a renewal application, would you not agree that Mr. Ojvan was likely unaware of city processes rather than misrepresenting himself and this being a question of integrity? Do you have any evidence which supports the question of integrity? Mr. Lawrie advised that a renewal application is less money but that integrity appears to be a concern in this matter due to the way in which the applicant presented himself and accepted both licences.

• Is there any information on the application process which asks whether the applicant is currently a licence holder or whether or not there has ever been a suspension on an applicant’s licence? Mr. Lawrie advised that there is currently not.

• Is this well known in the industry, where an applicant would circumvent the process by applying for a new licence rather than renewing a current licence? Mr. Lawrie advised that he does not have information to support this and wishes to withdraw two evidence submissions related to the September 15, 2015 application.

• What is the reason that we are here today? Mr. Lawrie advised that this matter was initially scheduled for August 17, 2015 but that Mr. Ojvan submitted an adjournment request and such was granted, with the condition that his licence be suspended until the matter went before Tribunal. We are here today because Mr. Ojvan has been operating his business without having a Master Licence Holder.

• Do we have evidence to support that he was working without a contractor licence? Mr. Lawrie advised that MLE staff do not have any actual findings which demonstrates that Mr. Ojvan was working without a contractor licence, but what is known is that he has been without a Master Licence Holder for quite some time, making the contractor licence invalid.

• But it appears that Mr. Ojvan now has a Master Licence Holder attached to his Contractor Licence. Is that correct? Mr. Ojvan advised that he has recently passed a test to become the Master Licence Holder and this would now be correct. Mr. Ojvan added that only a very small portion of the work he does actually involves renovations and requires this contractor licence.

In closing, Mr. Lawrie’s comments included, but were not limited to, the following:

• The City is requesting that the licence be suspended for six additional months due to operating without a Master Licence Holder for a six month period.
In closing, Mr. Jakov Ojvan advised that he had no further comments.

Having considered the submissions of the parties, the Tribunal provided their decision which is shown as Item 1 above.

(e) SHOW CAUSE HEARING: Jaspal Gill, 1826548 Ontario Inc., and 1830259 Ontario Inc., located at 250 Gibson Drive, Hamilton, Ontario, L8L 6R4, respecting City of Hamilton Taxicab Driver Licence (#15-127511) (Item 4.3)

On August 26, 2015, the Issuer of Licences corresponded with the Legislative Coordinator for the Hamilton Licensing Tribunal, requesting that a Show Cause hearing be scheduled and brought before the Hamilton Licensing Tribunal to consider whether the above referenced licence should be revoked, suspended or conditions imposed upon it.

Pursuant to Section 12(1) of the General Provisions of the City of Hamilton Licensing By-Law 07-170, as amended ("City of Hamilton Licensing By-Law"), a Show Cause Hearing was requested and subsequently scheduled on September 29, 2015 and brought before the Hamilton Licensing Tribunal to consider whether the above referenced licence should be revoked or suspended or conditions imposed.

Pursuant to Section 8 of the Statutory Powers Procedure Act, R.S.O. 1990, c.S22, the grounds for revocation or suspension or the imposition of conditions at this hearing are:

Pursuant to s. 8 of the Statutory Powers Procedure Act, R.S.O.1990, c. S.22, the grounds for revocation or suspension or the imposition of conditions that will be relied upon at this hearing are:

1. City of Hamilton Licensing By-Law, General Provisions, Section 12(1)(c)(i): The licensee has not met certain of the requirements under the By-Law, including Schedule 25;

2. City of Hamilton Licensing By-Law, General Provisions, Section 12(1)(c)(vi)(1.): In the opinion of the Issuer of Licences, the operation of the licensee’s business would put the public safety at risk;

3. City of Hamilton Licensing By-Law, General Provisions, Section 12(1)(c)(vi)(2.): In the opinion of the Issuer of Licences, the operation of the licensee’s business is not or will not be carried on in compliance with the law;

4. City of Hamilton Licensing By-Law, General Provisions, Section 12(1)(c)(vi)(3.): In the opinion of the Issuer of Licences, the conduct of the licensee, officers, directors, employees, or agents affords reasonable grounds for belief that the licensee will not carry on or engage in the business in accordance with the law or with honesty or integrity;
5. City of Hamilton Licensing By-Law, General Provisions, Section 23:  
The licensee has failed to be responsible that every vehicle authorized to 
be used for the purpose of the licensed business was so used only when in 
a clean and safe condition;

6. City of Hamilton Licensing By-Law, General Provisions, Section 24:  
The licensee has failed to permit an inspection of a vehicle used in 
connection with the carrying on of a licensed business by a person 
authorized to enforce the provisions of the By-Law;

7. City of Hamilton Licensing By-Law, General Provisions, Section 26(2):  
The licensee has failed to comply with all applicable law, including all 
provisions of the By-Law and Schedule 25;

8. City of Hamilton Licensing By-Law, General Provisions, Section 26(2):  
The licensee has permitted their employees, agents or other persons 
carrying on or engaging in the licensed business on their behalf to fail to 
comply with all applicable law, including the provisions of the By-Law and 
Schedule 25;

Namely,

**Mechanical Defects**

The City undertook sixteen (16) inspections between December 5, 2013 and March 20, 2015 wherein it was found that, contrary to Schedule 25, section 65(1)(k), Gill has permitted the operation of certain taxicabs where such vehicles had mechanical defects. Section 65(1)(k) provides that no licensed owner or lessee shall operate or permit the operation of a taxicab where such vehicle has mechanical defects.

**Vehicle Not Approved for Use**

The City undertook seven (7) inspections between February 4, 2014 and March 19, 2015 wherein it was found that Gill has permitted the operation of certain vehicles where they have not been approved for use as a taxicab.

Schedule 25, section 65(1)(d) provides that no licensed owner or lessee shall operate or permit the operation of a vehicle of which he or she is the owner where the vehicle is not approved for use as a taxicab under the provisions of Schedule 25.

Schedule 25, section 58(3) provides that no taxicab owner shall use a spare taxicab:

(a) without first giving notice, including the plate number of the taxicab that 
will be replaced and the dates when the spare taxicab will be used, to the 
Issuer of Licences;

(b) for more than seven consecutive days;

(c) unless he or she complies with all of the requirements for a taxicab owner 
under Schedule 25, including complying with section 56 by submitting their
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On-Board Camera

The City undertook seven (7) inspections between December 7, 2013 and March 20, 2015 wherein it was found that, contrary to Schedule 25, section 64(1)(o)(ii), Gill has failed to equip certain of his leased taxicabs with a fully operational on-board camera. Section 64(1)(o)(ii) provides that no licensed owner or lessee shall fail to equip each licensed taxicab with, at all times when the taxicab is in service, a fully operational on-board camera.

Taxicab Meters

The City undertook three (3) inspections between December 7, 2013 and March 19, 2015 wherein it was found that, contrary to the City of Hamilton Licensing By-Law and Schedule 25, Gill has permitted certain of his leased taxicabs to operate when the meter is not in compliance with the By-Law.

Schedule 25, subsections 53(1)(e) and (g) provides that every owner of a taxicab shall have affixed to each taxicab, in respect of which such owner is licensed, a taxicab meter for registering distance travelled, waiting time and computing the fares to be paid, and each taxicab meter shall be used only when the seal thereon is intact; and kept in good and accurate working condition at all times.

Schedule 25, section 65(1)(p) provides that no licensed owner or lessee shall operate or permit the operation of a taxicab of which he or she is the owner unless equipped with a taxicab meter which has been tested, sealed and approved by the Issuer of Licences or Officer unless authorized under section 54.

Schedule 25, section 65(1)(q) provides that no licensed owner or lessee shall operate or permit to operate a taxicab when the taximeter is out of order or defective in any way or the taximeter seal if broken, altered or not intact unless authorized under section 54.

Failure to Produce Vehicle for Inspection

Contrary to Schedule 25, section 65(1)(i), Gill has failed to submit a taxicab for inspection or approval or both as required under the General Provisions of the City of Hamilton Licensing By-Law or Schedule 25.

Specifically, on April 17, 2014, MLE demanded that Gill and 1826548 produce taxicabs #046, #105, #233, #293, #337 and #388 to the Taxi office immediately for inspection. All of these vehicles had been leased by 1826548, however, the leases were expired. Gill did not produce any of these vehicles to the Taxi office. Gill did attend at the Taxi office that day and gave excuses for why the vehicles were not attending.

And, on March 19, 2015, an MLE officer conducted a roadside inspection on Hamilton Cab Spare Taxi #838, with Taxi Plate #187 attached. Among other deficiencies, it was
found that the vehicle was not permitted to be used as a taxicab as the vehicle had not been in for general inspection and approval.

**Agents’ Failure to Comply**

With respect to the taxicabs and the issues of non-compliance set out in the paragraphs above, Gill has permitted the taxicab drivers who drive those taxicabs to drive vehicles that are not in compliance with the City of Hamilton Licensing By-Law and Schedule 25.

**Schedule 25, subsections 63(1)(b), (o), (p), (r) and (s)** provide that no licensed driver shall operate a taxicab:

- where seat belts are not available for use by each passenger carried;
- when the taxicab meter does not operate properly;
- when the taxicab meter seal has been broken, altered or removed unless authorized under section 54;
- which is not approved for use as taxicab by the Issuer of Licences;
- unless such vehicle meets the standards required for the issue of an acceptance under an Ontario Ministry of Transportation vehicle Inspection report, or meets the standards for the issue of a Safety Standards Certificate of mechanical fitness.

**Non-Compliance with Applicable Law**

In addition to the grounds set out above, the Issuer of Licenses relies upon the following convictions as evidence of the licensee’s non-compliance with applicable law:

Since April 16, 2014, Gill and his numbered corporations have been convicted of the following Provincial Offences Act charges and fined accordingly:

<table>
<thead>
<tr>
<th>Inspection Date</th>
<th>Taxicab</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 7, 2013</td>
<td>#233</td>
<td>000010 – 1826548 Ontario Inc. found guilty March 13, 2015; $2000.00 fine</td>
</tr>
<tr>
<td>December 7, 2013</td>
<td>#415</td>
<td>000011 – 1826548 Ontario Inc. found guilty March 20, 2015; $2000.00 fine</td>
</tr>
<tr>
<td>December 7, 2013</td>
<td>#017</td>
<td>000013 – 1826548 Ontario Inc. found guilty March 13, 2015; $2000.00 fine</td>
</tr>
<tr>
<td>February 13, 2014</td>
<td>#138</td>
<td>000801 – 1826548 Ontario Inc. found guilty March 20, 2015; $2500.00 fine</td>
</tr>
<tr>
<td>March 26, 2014</td>
<td>#430</td>
<td>001537 – 1830259 Ontario Inc. found guilty March 20, 2015; $3000.00 fine</td>
</tr>
<tr>
<td>March 1, 2014</td>
<td>Cab #821</td>
<td>001539 – Guilty plea by 1826548 Ontario Inc. June 26, 2015; $2000.00 fine</td>
</tr>
</tbody>
</table>
On April 16, 2014, MLE received a copy of convictions for Licensing and Zoning charges laid against Gill and another numbered company with which he is involved, 1734958 Ontario Inc. The convictions were for:

(i) Operating a public garage without a licence (X2) at 97 Earl Street, Hamilton, Ontario; total of $2000.00 fine, plus costs and surcharges; and

(ii) Permit property to be used for storage of vehicles (X2) at 252 Gibson Avenue, Hamilton, Ontario; total of $4000.00 fine, plus costs and surcharges.

Gill’s licence expires on June 13, 2016. If the hearing has not been completed before the licence expires and:

- the licence holder has not submitted a completed application for a renewal, then we will request that the hearing be cancelled. If this is the case and the licence holder keeps operating without a licence, they will be doing so contrary to the Licensing By-law; or,

- the licence holder has submitted a completed application for a renewal, then we will request that the hearing proceed under Section 12(1) of the Licensing By-law as a refusal of the licence rather than as a recommendation to revoke or suspend the licence.

Request for Adjournment:

On September 28, 2015, the Legislative Coordinator received a Request for Adjournment from Mr. Richard D. Simmons, Lawyer representing Mr. Jaspal Gill, from Ross & McBride L.L.P. In the letter sent via e-mail and facsimile, the following is noted:

“Please be advised that Mr. Gill has retained me to represent him before the Licensing Tribunal as of today’s date. As I have experience with the taxi industry, I would like to argue the case on my client’s behalf. Unfortunately, I am unable to attend tomorrow, and will have Ms. Sreya Roy attend to request an adjournment.”

September 29, 2015 Hearing:

Ms. Byrdena MacNeil, Senior Solicitor, provided her Opening Statement that included, but was not limited to, the following:

- The licensee, Mr. Jaspal Gill, is a taxicab driver licensed under the City of Hamilton Licensing By-Law and also director of two corporations: 1826548 Ontario Inc. and 1830259 Ontario Inc.

- Through his companies, Mr. Gill is the lessee of a number of taxicab plates within the City of Hamilton. Mr. Gill is also the owner of spare taxicabs.
• Pursuant to s. 1(1)B of Schedule 25 – Taxicabs, a schedule to the City of Hamilton Licensing By-Law, a lessee has all the obligations and duties of a taxicab owner.

• Mr. Gill is before the Tribunal today as a result of failing to comply with all applicable law, including provisions of the By-Law and Schedule 25. For example, between December 5, 2013 and March 20, 2015, the City carried out several inspections wherein it was found that Gill had permitted the operation of certain taxicabs where such vehicles had mechanical defects.

• The City is requesting that Taxicab Driver Licence #15-127511 belonging to Mr. Jaspal Gill, be revoked. Given that Section 49(18) of Schedule 25 provides that all lessees must have and maintain a current City of Hamilton taxicab driver’s licence, Mr. Gill would no longer be able to act as a lessee should his licence be revoked.

• The City is prepared to proceed with the Hearing today, and has witnesses present, but understands that there is a Request for Adjournment from Mr. Gill's counsel.

Ms. Sreya Roy, Solicitor, Ross & McBride L.L.P., representing Mr. Jaspal Gill, provided her Opening Statement that included, but was not limited to, the following:

• A Request for Adjournment was submitted by Mr. Richard Simmons, Solicitor, Ross & McBride L.L.P., on September 28, 2015, after being retained by Mr. Jaspal Gill. Because of his experience in the taxicab industry, Mr. Gill requests that Mr. Richard Simmons represent him and no other lawyer from the firm.

• Before the Tribunal today, representing Mr. Jaspal Gill, after requested by Mr. Richard Simmons to attend on his behalf due to his regrets, in order to seek an Adjournment.

• Willing to provide more detail should the hearing proceed, but our client Mr. Jaspal Gill has taken interim action by reducing the number of plates (now at 48); taking corrective measures for cars with mechanical defects; and implementing quality assurance checks such as inspecting all his cars weekly.

• Gill has reduced the number of cabs on the road from 77 to 48 in order to concentrate more attentively on these vehicles to ensure they are in good order.

• The Request for Adjournment is for a one-month period, with the next scheduled date of October 29, 2015 as per the Legislative Coordinator.

Ms. Sreya Roy, agent, and Mr. Jaspal Gill, appellant, were solemnly affirmed prior to providing testimony.

The Tribunal asked questions that included, but were not limited to, the following:

• Does the Request for Adjournment to the October 29, 2015 Hearing put the public at risk? Ms. MacNeil advised that although inspections are continuing and a one month extension may sound reasonable, the allegations before the
Tribunal today are serious and there is safety concern for the public, taxi cab drivers and its passengers. Currently, no information has been received to prove that the numerous issues have been addressed.

- What was the reason for delay in obtaining legal counsel? Mr. Gill advised that on September 10, 2015, he had met with Al Fletcher, Manager of Licensing & Permits to discuss the situation and at that time then realized how serious the matter was. Mr. Gill further advised that he wanted a lawyer because he didn’t want to risk it or take a chance.

- Is the City confident in a one-month adjournment extension? Is the general public at risk? Ms. MacNeil advised that it is difficult to answer, but what can be noted is that some of the inspections are dated and that the bulk of evidence stems from March 2015. However, there have been recent charges respecting Mr. Gill’s fleet – April, July and September of 2015. Cab #430, for example, is an accessible taxicab which had numerous issues when inspected, including: camera not operating; rear seat not secured; exhaust leaking into the passenger cabin; shifter cable secured with a shoe lace under the hood; and battery being secured with a bungee cord.

(B. Johnson/Duvall)
That the Hamilton Licensing Tribunal move into Closed Session, at 11:45 a.m., to deliberate upon the submissions of the parties, respecting the request for adjournment for Jaspal Gill, 1826548 Ontario Inc., and 1830259 Ontario Inc., located at 250 Gibson Drive, Hamilton, Ontario.

CARRIED

The Tribunal reconvened in open session 12:01 p.m.

The Tribunal asked questions that included, but were not limited to, the following:

- Can you please explain the safety measures that have since been taken? Ms. Roy was advised by Mr. Gill that the majority of issues relating to Cab #430 have now been addressed. Mr. Gill has recently reduced his fleet to concentrate on vehicles currently on the streets to ensure better inspections. The majority of safety issues have been immediately dealt with once known and Mr. Gill advises drivers to check cars daily – this is a new improvement to operations. Mr. Gill added that he has even considered getting a mechanical licence to be able to conduct his own inspections.

- What type of inspections are you performing on your vehicles? Mr. Gill advised that he carries out inspections every week, looking for major safety issues, but that sometimes his drivers to not report issues to him. Further, Mr. Gill advised that he does a circle check on vehicles and if issues such as electrical problems are not reported then these issues can be hard to control. Over the last 6 months, a number of cars have been taken off the road to better focus on the safety of vehicles.
• Are any of the cabs still on the road where a major safety concern has been identified? How about Cab #430 following the inspection of Thursday, September 24, 2015? Mr. Gill advised that it depends on the inspections and vehicles are only removed from the road and then taken out of service if proven unsafe. Cab #430 was plated and put back on the road on Friday, September 25, 2015 after it passed inspection.

• Do drivers report their daily inspections to you? Mr. Gill advised that they call or text if there are issues and that this new process was implemented a few months ago. Working with the drivers can be tough but there’s been good improvement.

• Given the overall safety concern for the public, drivers and its passengers, which of the two options would you agree to today: a) to allow the adjournment until October 29, 2015 and have the taxicab licence of Mr. Jaspal Gill suspended immediately; or, b) to proceed with the full Show Cause Hearing today. Ms. Roy requested a Recess to consult with Mr. Richard Simmons, the lawyer retained by Mr. Jaspal Gill.

(Duvall/Collins)
That the Tribunal recess for 5 minutes.

CARRIED

The Tribunal reconvened at 12:14 p.m.

In closing, Ms. Roy’s comments included, but were not limited to, the following:

• Following consultation with Mr. Richard Simmons, the client is in a position to accept the offer of adjournment with a suspension attached, provided that a 7-day time period be granted for removing vehicles off the road as a best case scenario. Mr. Gill has not had the opportunity to speak with the brokerage operating firm and would need to provide at least one week notice to the 100+ drivers.

In closing, Ms. MacNeil’s comments included, but were not limited to, the following:

• Gill has been put on notice about public safety concerns since 2013 and that there has been lots of opportunity to address outstanding issues.

• The City is continuing inspections on all taxi cab vehicles, including those belonging to Mr. Jaspal Gill, to ensure by-law compliance and protection of public safety.
The City recognizes the impact that a suspension would have on operations, given that it is estimated that there would be two drivers per licence but, at the same time, recognizes the importance of public safety and has a duty to protect drivers, passengers, and the general public. As such, the city would recommend 24-hours for Mr. Gill to provide notification to his drivers regarding this suspension.

(Collins/Green)
That the Hamilton Licensing Tribunal move into Closed Session, at 12:17 p.m., to deliberate upon the submissions of the parties, respecting the request for adjournment for Jaspal Gill, 1826548 Ontario Inc., and 1830259 Ontario Inc., located at 250 Gibson Drive, Hamilton, Ontario.

CARRIED

The Tribunal reconvened in open session 12:20 p.m.

Having considered the submissions of the parties, the Tribunal provided their decision which is shown as Item 2 above.

(g) PRIVATE & CONFIDENTIAL (Item 5)

(i) Closed Session Minutes - August 17, 2015

As the Tribunal determined that no discussion respecting the Closed Session Minutes of August 17, 2015 meeting of the Hamilton Licensing Tribunal was required, the Minutes were approved in Open Session, as shown below:

(Jackson/Duvall)
(a) That the Closed Session Minutes of the August 17, 2015, meeting of the Hamilton Licensing Tribunal be approved, as presented.

(b) That the Closed Session Minutes of the August 17, 2015, meeting of the Hamilton Licensing Tribunal, remain confidential and restricted from public disclosure.

(h) ADJOURNMENT (Item 6)

(Green/B. Johnson)
That, there being no further business, the Hamilton Licensing Tribunal be adjourned at 12:22 p.m.

CARRIED
Respectfully submitted,

Councillor T. Whitehead, Chair
Hamilton Licensing Tribunal

Denis Farr
Legislative Coordinator
Office of the City Clerk