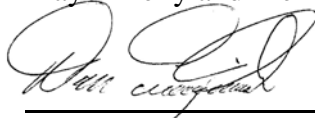


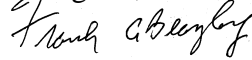
Halifax Regional Council
June 10, 2008
June 17, 2008

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Frank A. Beazley, Chief of Police

DATE: May 22, 2008

SUBJECT: Taxi Owner Licence Issues

Supplementary Report

ORIGIN

On February 26, 2008, Regional Council requested information in regard to numerous points which were raised at the public hearing in relation to the proposed amendments to By-Law T-108.

RECOMMENDATION

It is recommended that Regional Council give First Reading of By-Law T-138 which includes the following amendments:

- (a) eliminate limitations on the number of taxi owner licences that may be issued in the Halifax Regional Municipality;
- (b) Taxi owner licences only be issued to taxi drivers licenced and in good standing in the Halifax Regional Municipality;
- (c) Taxi owner licenses be limited to one per licensed driver;
- (d) Taxi owner licences be cancelled if the licensed driver loses his or her taxi driver's license;
- (e) Taxi owner and driver licenses continue to be non-transferable;
- (f) eliminate zones within the Halifax Regional Municipality ;
- (g) disband the Taxi and Limousine Committee and repealing Administrative Order #38;
- (h) offer owner licenses to those individuals currently on the waiting list, prior to new individuals;
- (i) allow advertising anywhere on vehicles; and
- (j) allow drivers to ask for reasonable amount of money up front before proceeding.

BACKGROUND

The Taxi and Limousine Advisory Committee submitted a report to Regional Council dated January 11, 2007, requesting Council to allow individuals to own and transfer ownership of Taxi Owner Licences.

Through discussions regarding the aforementioned report at the February 13, 2007 Regional Council meeting, Council requested a staff report exploring issues including: ownership, leasing, and limitations of owner licence.

During the January 8, 2008 Committee of the Whole, staff presented a Recommendation Report discussing the aforementioned issues; Regional Council approved in principle the current recommendations and a Public Hearing date was set for February 26, 2008.

Following the Public Hearing, Regional Council requested information of the following points which were raised in relation to the proposed amendments to By-Law T-108:

1. provide clarity on why this is back before Council, clarify the concerns regarding the lack of service issues and affected times, and will these recommendations have an impact on the service level expectations of the public;
2. family clause, giving first right of opportunity to the family (i.e., spouse, partner, or direct dependent) to retain the owner licence if a driver loses the capacity to drive due to being a victim of crime or disability impairment;
3. provide clarity on item "d", when a licensed driver loses his or her taxi driver's licence;
4. number of leases in each zone and the number of licensed drivers on the waiting list who currently do not have an owner licence;
5. is leasing legal, and what is the difference between leasing and renting;
6. transferability, is it allowed in the Province of Nova Scotia;
7. the benefit of opening up the zones;
8. wording that determines vehicle sizes;
9. any regulations relating to the Brokers;
10. meter surcharge for late night/early morning hours, other municipalities; and
11. licences issued to a proprietor, partnership or limited company affect liability, and is there a way to control one owner/one driver in this situation.

DISCUSSION

(1) Provide clarity on why this is back before Council, clarify the concerns regarding the lack of service issues and affected times, and will these recommendations have an impact on the service level expectations of the public?

As outlined in the background of this report, these issues are presently before Council in response to a request from Council to address several questions after a presentation early in 2007. Recent information presented to Council indicates there is still a significant gap between the interests of owner licence holders, the public and other stakeholders regarding the availability of services.

- Council was presented with information from two of the major Taxi Broker Companies indicating the gap in service is not isolated to only weekends or early morning hours, but also affects weekday services as early as 3:00 p.m.
- The Halifax Stanfield International Airport has also reported on several occasions a lack of taxis to service customers at the terminal. Taxis at the airport do hold a separate airport licence and are supplied with the flight arrival schedules which indicates service demands.
- Some members of Council presented concerns from some members of the public that they could not secure a taxi when they were looking for one, particularly during peak times.
- Some holders of owner licences presented concerns that new drivers would affect their current incomes and/or hours of work.
- Some holders of owners licences presented concerns that these licences should be transferable, providing a source of value in retirement on exiting the industry.
- Some drivers in lease agreements presented issues with being in high priced lease agreements with no security, several reporting this condition for at least seven years.

The staff report presented during Committee of the Whole on January 8, 2008 attempted to outline the difficulty with Government over regulating this private industry. For many years, staff reports, Consultant's report, and Industry have recommended various changes and amendments, some of which have been adopted. Issues regarding limitations, zones and transferability continue to resurface as issues that require debate. Staff have attempted to outline that it may very well be impossible for HRM to ever satisfy all of the stakeholders in this industry, largely because we are attempting to impose limits and service standards to an industry that we do not own.

(2) Family clause, giving first right of opportunity to the family (i.e., spouse, partner, or direct dependant) to retain the owner licence if a driver loses the capacity to drive due to being a victim of crime or disability impairment.

Current regulations do not require an owner licence holder to be the operator of the licence. Currently there are many situations whereby the owner licence holder has decided to rent out his licensed vehicle to another driver, or lease a driver's vehicle to be registered to the owner licence and have that driver operate it. Current regulations also allow an owner licence to be placed in a medical hold or suspension, for medical reasons, until such time as the conditions permit the licence holder to return to work.

If staff's recommendation regarding owner licence limitations and owner licence eligibility is adopted, then anyone who holds a valid taxi driver licence would then be able to get a taxi owner

licence and go to work for themselves, allowing them to continue to earn a family income in the event of injury or death, and essentially eliminating the issues surrounding transferability.

If limitations remain, an amendment would be required to allow for this form of transferability and would disadvantage the drivers that may be on the waiting list ahead of the family member on the waiting list.

(3) Provide clarity on report recommendation “d” - taxi owners licences be cancelled if the licensed driver loses his or her taxi driver’s licence.

On a go forward basis, staff recommends amending the regulations governing the eligibility and issuing of owner licences in all zones, to include the following standardize criteria:

- Taxi owner licences only be issued to taxi drivers licensed and in good standing in the Halifax Regional Municipality;
- Taxi owner licences be limited to one per licensed driver; and
- if a licensed taxi driver fails to maintain or loses his or her taxi driver’s licence, their corresponding taxi owner licences would be equally affected.

If the aforementioned is approved, this would imply that an individual taxi driver who is also issued a taxi owner licence, would have both licences correspond. Therefore, if the individual’s taxi driver licence is revoked or suspended, then the corresponding taxi owner licence would receive the same action, and be revoked or suspended. Once the individual was able to regain his/her taxi driver’s licence, they would simultaneously be able to reapply for their taxi owner licence.

In the current system, if a taxi driver and/or owner licence is suspended, once the suspension is over both licences could be re-instated. If a taxi driver and/or owner licence is revoked, that individual will have the opportunity to reapply for a taxi driver’s licence and, if approved, have their name placed on the bottom of the owner’s licence waiting list. If limitations were removed, there would not be any waiting list and they would immediately qualify for a taxi owner’s licence.

(4) Number of leases in the industry in each zone and the number of licensed drivers on the waiting list who currently do not have an owner licence.

Zone	Taxi Owner Licences	Lease Agreements	Waiting list
Halifax	610	177	* 298
Dartmouth	200	47	** 57
County	190	3	*** 0

- * 15 of those individuals currently hold an owner licence in another zone
- ** 57 individuals or companies of which:
 - 21 do not hold a Dartmouth taxi driver licence;
 - 17 are Dartmouth licensed taxi drivers who currently hold a Dartmouth owner licence;
 - and
 - 19 licensed taxi drivers on the waiting list, who currently do not hold an owner licence.
- *** 7 owner licences are currently available

(5) Is leasing illegal and what is the difference between leasing and renting?

In many of the present leases, one or more persons are presenting themselves and providing lease

agreements that are not a true account of the relationship or financial agreement between the two parties. The individual(s) are knowingly submitting false documents to staff in an effort to have staff act on them as if they were valid and representing a true relationship, while all the time knowing that the relationship they have is not correctly disclosed in the documents. Any time a person(s) presents false information to another person in an effort to obtain something of value (in this case, an owner's licence that is used for profit by leasing it to another), a fraud occurs.

What is Leasing?

The leasing of taxi roof lights or the transfer of owner's licences is not permitted within the provisions of the Halifax Regional Municipality Taxi By-law. A taxi owner licence is issued to an individual and that individual must provide a vehicle that meets the qualifications and the applicant must be the owner of the vehicle as defined in By-law T-108.

Some reasons why the aforementioned agreements are in place:

- the holder of the owner's licence no longer works in the industry but wants to keep the licence;
- the holder of the owners licence wants to profit from the \$50.00 per year HRM owner licence by charging a fee for its use;
- the licence holder has more then one owner licence but only has one vehicle; and
- the holder of the owners licence is unable to drive, supply a vehicle and/or obtain insurance.

What is Renting?

The current situation in the taxi industry known as renting is when an individual holding a taxi owner licence and a licensed taxi vehicle decide to rent out the fully equipped, licensed, and in most cases, insured taxi vehicle for a fee to drivers.

The difference with the renting is:

- the driver is renting a fully licensed and insured taxi vehicle as a package;

Taxi Owner Licence Issues

Council Report

- 6 -

June 10, 2008

- the driver is not paying to use his own vehicle;
- the driver and owner do not submit leasing documents; and
- the name appearing on the owner licence in most case actually owns the vehicle registered to his/her owner licence.

(6) Transferability, is it allowed in the Province of Nova Scotia?

The authority providing municipalities with the right to regulate and licence, by municipal by-law, vehicles for hire service, is contained in Section 305 (1)(b) of the Motor Vehicle Act of Nova Scotia. Licences are by definition personal privileges to engage in an activity and accordingly cannot be transferred. Generally, the concept of transferability in respect of licences relates to the situation wherein the licensing authority permits a person releasing a licence to nominate the person to whom a new licence will be issued. A prominent local example of this would be DFO issued commercial fishing licences.

There have been many opinions for and against transferability offered over the years. The Motor Vehicle Act does not expressly prohibit municipalities from adopting this type of procedure; however, the province has officially denied this request in the past. Specifically, on October 24, 2000, a letter from then Minister Ronald Russell, N.S. Department of Transportation, (attached as Appendix A) in response to Mayor Fitzgerald advised that a request to allow taxi owner licence transferability was reviewed and denied. The Government Legislative Committee had rejected the request to allow taxi licences to be sold on the open market.

Staff have researched the topic of transferability in other municipalities across the country. In Nova Scotia as an example, it is an industry of many individual owners, while in major cities in the West, all new licences are issued to larger corporations or brokers. In some cases the drivers may be shareholders, and in other cases, they are employees who drive and are provided with a shift schedule they must work. Some cities regulate the industry, while in other areas, it is the province.

It would be very difficult for HRM to mirror other municipalities, and as most of those contacted are reviewing parts of their industry, it seems that there is no perfect system, and government attempts to control the industry are continually being revisited.

The following variations exist within other municipalities' taxi legislation:

- no limits and no transferability;
- limits and no transferability
- limits and transferability;
- limits, except for accessible taxis, and transferability for owner's licences before a certain date, all new licences not transferable;
- cities that control the selling (price and who it goes to; i.e., first on list);
- cities that have nothing to do with the selling, except to collect a transfer fee;

- cities that have lists; and
- cities with no lists.

In every case, the new candidate must meet all eligibility requirements as dictated by the legislation.

Of note, many cities are reviewing, or have reviewed, their transferability clause and new licences are no longer transferable (old ones are still grandfathered). At least three cities are reviewing our reports and monitoring the progress here, as they are considering some form of deregulation in their Municipality.

In Atlantic Canada, staff researched bylaws in 12 larger Towns, Counties and Municipalities and note the following:

- HRM and St. John's, NL are the only two with limitations;
- Saint John, NB has transferability with no limitations; and
- none of those checked have transferability with limitations.

(7) The benefit of opening up the zones.

The current limitation and zone regulations are directly having a negative impacting on the public's demand for services by:

- owners/drivers are private businesses and regulate their own hours and days of work;
- owner licence limitations prevent more vehicles from being added into service to meet the public demand and limit industry competition;
- owner/driver licences are restricted to work in a particular zone for which the licence has been issued, regardless of the public demand; and
- the public's freedom of choice to select taxi services is greatly restricted by the municipality. An individual can only select services which are licensed in their zone and cannot call a company in another zone if they have no services available.

The benefits of opening up the zones are as follows:

- the public being serviced would have the freedom of choice to select their preferred service provider. Currently, the public can only request a taxi that is licensed in their geographical area or zone;
- all licensed taxis in the industry would have access to all major public facilities in the HRM; and
- all licensed taxis could then service customers when they are available, without having to deadhead back to their "home zone". The vehicle would be moving more often with paying customers rather than deadheading empty, especially those taxis working with companies utilizing GPS dispatching systems. Drivers would then be able to better

respond to the public demand such as special events or popular public areas.

(8) Wording that determines vehicle sizes.

The current regulations established in consultation with the industry, outline a vehicle size as follows:

- is equipped with an engine of at least four cylinders;
- has a height from the top of the floor to the underneath side of the roof of at least 45 inches;
- has a width from the inside of one door post to the inside of the door post on the opposite side of at least 54 inches;
- has a length from the dashboard, excluding extremities, to the front of the back seat of at least 63 inches; and
- for the 2002/2003 and subsequent licensing years, has a wheelbase measurement of at least 105 inches.

(9) Any regulations relating to the Brokers.

There is presently no regulation of taxi brokers in HRM. The issue of the licensing or regulation of brokers is not specifically dealt with in the vehicle for hire provisions of the *Motor Vehicles Act*. However, s. 172(1)(f) of the *Municipal Government Act* allows the municipality to make by-laws respecting businesses, business activities and persons engaged in business. This section would provide HRM with sufficient authority to regulate taxi brokers.

(10) Meter surcharge other municipalities, late night, early morning and weekends and/or the availability for late night transit.

Staff surveyed the following municipalities:

Calgary, Saskatoon, Ottawa, Fredericton, Vancouver, Winnipeg, Edmonton, Quebec, Toronto, Mississauga, Hamilton, Regina, Brampton and London;

all of which do not have fare surcharges for off peak services, late night, early evening or weekend services.

Planning staff of Metro Transit recently investigated the potential of Late Night Shuttle Bus service in response to after hours demand.

The findings were as follows.

After researching late night shuttle services across the country there are specific characteristics that are required:

- In order to be at all effective, the service should span from 12:00 a.m. to 4:00 a.m., at a

- Security should be provided for operators working this shift to provide protection and prevention from any altercations.

Staff indicated it would take eight buses to provide this service. The additional transit service would result in the following annual net cost of \$519,400.00. The projected revenue is costed at

10% which is less than Metro Transit's average recovery rate. The research shows that the recovery rate of a late night shuttle is not significant.

It also should be noted that several large Canadian cities with significant population bases, such as Toronto and Vancouver, run all night transit service. However, the smaller "temporary" late night shuttle services which were put into place in university towns in Guelph and Fredericton, to counteract similar issues such as the ones HRM now faces downtown late at night, were not found to be successful and have since been terminated.

(11) Licences issued to a proprietor, partnership or limited company, affect liability and is there a way to control one owner/one driver in this situation.

There are several business models which may be appropriate for use in the taxi industry. These include sole proprietorship, partnership, limited partnership and business corporation. The decision as to which business model to adopt usually takes into account various factors including risk reduction, income tax reduction/deferral and the facilitation of business transfers. Corporations have the benefit of protecting the shareholders from potential liability as generally all each investor stands to lose is the money they have actually invested in the business in the event of corporate liability to a third party.

Canadian income tax law leans toward encouraging small businesses to grow through the use of business corporations. Essentially the *Income Tax Act* allows for the sheltering of a significant percentage of the business income so that it can be reinvested and grow the business. The related tax liability is deferred until the owners of the corporation take the monies out in either salary or share dividends. In the situation of a proprietorship, the individual owning the business is fully liable for any debts of the business and also must pay the full taxes on income earned by the business. A partnership is similar to a sole proprietorship except it involves two or more persons as co-owners. A limited partnership is effectively a combination between the partnership and the incorporated business models. There may be one or more general partners who essentially are

fully liable for the debts of the business and there is also one or more limited partners whose liability is limited to the amount of money invested in the business. A frequent practice is to have the individual as a limited partner and a corporation as a general partner.

The impact of licensing on the various business models is most relevant where a corporation is involved. The corporation has the ability to limit the potential personal liability of the business owners; however, if the licence must be held in the name of an individual, then potentially the

individual holding the licence is subject to liability - for example, arising out of a collision involving the taxi. The tax consequences of having the individual hold the licence does not appear to be too significant as the general practice in, for example, the fishing industry, is to have the licence holder make a declaration of trust that he holds the licence as the property of the corporation.

It would be possible for HRM to allow the issuance of taxi owner licences to corporations but additional constraints on the corporate setup would be necessary to enforce the concept of restricting

new taxi owner licences to licensed taxi drivers. For example, one condition might be to require that a licensed taxi driver be the controlling shareholder in the company. Additionally, the same licensed taxi driver could not be involved with more than one company which holds a taxi owner's licence.

SUMMARY

The taxi industry is made up of many individual privately owned and operated small businesses, and the municipality's role should be to focus only on the public safety components, not be directly involved in regulating the economic viability of the private industry.

Therefore, municipal regulations should focus on ensuring the following:

- regulations that control licensing fees and promote equal opportunity for people entering or working in the industry;
- vehicle safety and appearance is adequately maintained and easily identifiable;
- owners and drivers continue to meet By-law requirements and are adequately insured and licensed;
- establish a maximum rate schedule; and
- remove restrictions that affect the public's freedom of choice in selecting services, on how the number are licences are determined and restrictions that prohibit licensed taxis from servicing the entire HRM area.

BUDGET IMPLICATIONS

There are no budget implications as a result of this report.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council may elect to completely deregulate the industry.

2. Council may elect to partially regulate the industry.
3. Council may elect to phase in the elimination of zones and limitations.

Taxi Owner Licence Issues

Council Report

- 11 -

June 10, 2008

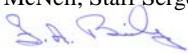
4. Council may elect to adopt only part of the staff recommendation.
5. Council may elect not to adopt any recommendations and maintain the current status quo.


ATTACHMENTS

Appendix A: Letter from Minister Russell, N.S. Department of Transportation - 24 October 2000

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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Department of
Transportation
and Public Works
Office of the Minister

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Our File Number:

APPENDIX A

October 24, 2000

Mayor Walter Fitzgerald
Halifax Regional Municipality
1841 Argyle Street
Halifax, N.S.
B3J 3A5

Dear Mayor Fitzgerald:

This is further to correspondence from Deputy Minister Howard Windsor on January 14, 2000 regarding taxi owner license transferability. The Government Legislative Committee has reviewed the request for amendments to the *Motor Vehicle Act* to allow existing taxi licenses to be sold on the open market, and the Committee has rejected the request.

Thank you for your interest in this matter.

With personal regards,

A handwritten signature in black ink, appearing to read "Ron Russell".

Ronald S. Russell, CD
Minister

DLS/mal
c.c. Honourable Angus MacIsaac



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