

Transportation Standing Committee
October 2, 2013

TO: Chair and Members of the Transportation Standing Committee

Original signed

SUBMITTED BY:

Brad Anguish, Director, Community and Recreation Services

DATE: September 9, 2013

SUBJECT: Taxi Medallion Proposal and Taxi Owner Licenses

INFORMATION REPORT

ORIGIN

August 8, 2012 Motion of the Transportation Standing Committee (TSC):

MOVED by Councillor Watts, seconded by Councillor Blumenthal, that the Transportation Standing Committee request a staff report responding to issues raised in the August 3, 2012 correspondence from Mr. Alphonse DesLaurier, HRM Medallion Agency, as well as correspondence received from Casino Taxi Ltd. dated June 12, 2012, and the Halifax International Airport Authority dated August 3, 2012, et al.

MOTION PUT AND PASSED.

October 30, 2012 Motion of Halifax Regional Council:

MOVED by Councillor Watts, seconded by Councillor Walker that staff prepare a report regarding the possibility of enabling legislation to consider the transferability of taxi owner licenses. MOTION PUT AND PASSED.

LEGISLATIVE AUTHORITY

- *Nova Scotia Motor Vehicle Act*, Section 305(1);
- HRM By-law T-1000, Respecting The Regulations of Taxis, Accessible Taxis and Limousines; and
- HRM Administrative Order #39, Respecting Taxi and Limousine Regulation.

BACKGROUND

Correspondence dated August 3, 2012, from Mr. Alphonse DesLaurier, Medallion Agency, offered the following comments in relation to the staff report presented on July 5, 2012 to the TSC:

- a medallion system creates better service for the public and a more highly regulated industry;
- a medallion system replaces older, sick and retiring drivers with a new driver;
- a medallion is not a license it is a registered property;
- Medallion Agency is not seeking transferability;
- the current system in the HRM creates industry hardship; and
- a medallion would eliminate multiple owners, result in one license per one taxi driver, and keep fares from being artificially priced.

Correspondence dated June 12, 2012, (attached as Appendix A) from Casino Taxi Ltd, raised two concerns:

- taxi rate increases; and
- the current open taxi zones.

Correspondence received August 3, 2012, (attached as Appendix B) from the Halifax International Airport Authority (HIAA), raised a concern over the HIAA's authority to govern its ground transportation matters. Particular concerns centered on the HIAA's legal authority to determine fares for taxis and limousines departing the Airport.

A Taxi Medallion Proposal was submitted by members of the Taxi industry to the Mayor and Councillors for consideration in July 2011.

- On April 26, 2012, the Medallion Agency made a presentation to the Transportation Standing Committee. Following that presentation and a subsequent meeting of the Transportation Standing Committee on May 24, 2012, a staff report was requested relative to the Medallion Proposal. On July 5, 2012 an Information Report (attached as Appendix C) regarding the Taxi Medallion Proposal was presented to the Transportation Standing Committee. On August 3, 2012, Mr. DesLaurier submitted correspondence in response to the July 5, 2012 Information Report.
- On October 30, 2012, Halifax Regional Council requested a staff report regarding the possibility of enabling legislation to consider the transferability of taxi owner licenses.
- On February 26, 2013, staff met with the executive of the Medallion Agency relative to their proposal and the information contained within this report.

DISCUSSION

Correspondence from Mr. DesLaurier:

Regarding the August 3, 2012 correspondence from Mr. DesLaurier and Regional Council's request for a staff report regarding the possibility of enabling legislation to consider the transferability of taxi owner licenses, the following facts provided:

- HRM's taxi policy seeks an owner operated system and has always maintained that taxi owner licenses are non-transferable property of the municipality. This policy direction and standard was re-affirmed by approval of By-law T-1000 at a Regional Council on October 23, 2012.
- The current HRM taxi owner license limitations (i.e., zones) have been carried forward from the previous municipal units prior to amalgamation.
- A "Medallion" is a symbol which is affixed to a taxicab to present physical evidence that the vehicle is licensed and can be used as a taxicab. In some jurisdictions, such medallions are allowed to be transferred or sold which effectively creates license transferability. In October 2000 the HRM submitted to the Province of Nova Scotia a request to permit license transferability. This request was denied by The Government Legislative Committee as the *Motor Vehicle Act* would require amendments.
- The "Medallion System" currently being proposed is essentially for the purpose of providing taxi owner license holders in the HRM with an opportunity to sell or lease their license. The proposed "Medallion System" is dependent on the medallion being linked to the HRM taxi owner licenses. Taxi Owner license in the HRM are limited in number, it is this limitation that creates the licenses' artificial value. A medallion which is not linked to the limited taxi owner license would be nothing more than a symbol similar to a roof light. There is no evidence linking the quality of services to the public and a medallion system. The price for an HRM taxi owner license is established in accordance with the Nova Scotia Motor Vehicle Act (MVA) section 305.
- Municipalities such as Ottawa and London, Ontario, permit transferability of licenses issued prior to 2007 and 2004 respectively. These licenses have a market value associated with them. All licenses issued after 2007 by Ottawa and after 2004 by London are non-transferable. The selling of licenses was introduced as a way to generate revenue for municipalities. Municipalities in Ontario and other jurisdictions are no longer permitted to generate revenue through the sale of the licenses. The resale of grandfathered licenses does not provide a municipality any additional revenue beyond the initial administration fee. Subsequent open market license resale yields profit to operators.

Another concern presented by the medallion proposal is in respect of its revenue raising aspect. Under section 92 of the *Constitution Act*, 1867, the Provinces (and by necessary implication municipalities) must raise revenues by direct taxation i.e. provinces can not raise revenue unrelated to the costs of providing a service except by imposing a direct tax. HRM Legal

Services has advised that a medallion fee would be invalid if it is unrelated to the cost of any service provided by the municipality.

In Nova Scotia, the authority for a municipality to regulate and license taxis is expressly set out under the *Nova Scotia Motor Vehicle Act* (MVA) section 305. Further, MVA section 306 restricts the powers of municipalities in the regulation, licensing or identification of vehicles to the powers set out in the MVA. By definition a licence is an authorization to do something and, accordingly, the MVA would not support turning a licence into a personal property such as the Medallion system proposes. In addition, the proposed Medallion concept is premised on privately owned medallions, restricting HRM to only issue licences to individuals holding a medallion.

For the reasons outlined above, staff do not recommend that Regional Council seek enabling legislation from the Province to consider the transferability of taxi owner licenses.

Correspondence from Casino Taxi:

Concerns outlined by Casino Taxi relative to taxi rate increases were addressed with the approval of By-Law T-1000 in October 2012.

Information provided by Casino Taxi relative to extending the open taxi zones was included in presentations to the Transportation Standing Committee in August 2012. The Transportation Standing Committee recommended, in a report to Regional Council, the approval of extending open taxi zones in the HRM. On October 23, 2012, Regional Council approved the extension of open taxi zones.

Correspondence from HIAA:

Concerns outlined by the HIAA relative to their authority to govern ground transportation matters, in particular the legal authority to determine fares for taxis & limousines departing from the Airport, have been addressed in the passing of the new regulation By-law T-1000, November 2012. The new regulations acknowledge that vehicles for hire, licensed to operate by the Airport Authority shall charge the fare rates established by the HIAA while operating from their property.

FINANCIAL IMPLICATIONS

There are no financial implications.

COMMUNITY ENGAGEMENT

The HRM's Taxi Medallion proposal has been presented and reviewed at the Transportation Standing Committee and the Taxi and Limousine Liaison Group. On February 26, 2013, staff met with the executive of the Medallion Agency, relative to their proposal and the information contained within this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

ATTACHMENTS

Appendix A: Correspondence from Casino Taxi Limited dated June 12, 2012

Appendix B: Correspondence from Halifax Stanfield International Airport dated August 2, 2012

Appendix C: Transportation Standing Committee Information Report dated June 18, 2012

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.

Report Prepared by: Kevin Hindle, Regional Coordinator, License Standards & Taxi/Limousine, 490-2550

Original signed

Report Approved by:

Jim Donovan, Manager, Municipal Compliance, 490-6224

Original signed

Martin Ward, Acting Director, Legal, Insurance and Risk Management Services, 490-6532



Appendix - A

Casino Taxi Limited

3558 NovaLea Drive
Halifax, Nova Scotia
B3K 3E8

Tel (902) 429-6666
Fax (902) 453-6843

Councillor Reg Rankin,
Chairperson,
Transportation Standing Committee

June 12, 2012

Dear Councillor Rankin,

I am writing to request an opportunity to meet with you to discuss a matter that is of great importance to the stakeholders, drivers, and customers of the HRM Taxi Industry. In the upcoming weeks, a staff report will be forthcoming to the Transportation Standing Committee, and as a result, you will be called upon to make important decisions that will affect our industry. From my understanding there will be three items relating to the Taxi Industry discussed at the meeting: 1 - Taxi Meter Raises, 2 - Opening the Zones on Thursday nights and extending until 6 am, and 3 - the Self Funded Pension Plan proposal. Specifically I am writing to you to share Casino Taxi's perspective on the first two items.

Meter Rate Increases

As you are aware, most businesses are sensitive to the external pressures of inflation, and as a result must make periodic price adjustments to reflect the increasing cost of operation. The taxi industry in particular is highly sensitive to the rising costs associated with fuel, automotive repair, and insurance. In spite of these pressures, the taxi rates in HRM have not been adjusted since November 2005; more than 6 ½ years. Approximately one year ago, the taxi industry brought forward a proposal for an increase, which after being forwarded to several departments, is about to be brought forward for your review and recommendation to Council. It is our concern that because all three taxi specific items are being grouped together for discussion, any delay in a decision on the other two items may automatically result in a delay on a decision on this item. I would like to urge that this not be the case. The taxi raises have not kept up with inflation for a number of years and it is our belief that this places a significant financial burden on the taxi driver, which should be permitted to be discussed and addressed in a timely manner.

Opening the Halifax Zones on Thursday Night and Extending the Open Zone Period to 6am

It is our understanding that there will be a proposal forthcoming that recommends further modification to the taxi zoning structure within HRM, essentially increasing the number of hours where the restrictions on taxi zoning do not exist. Our understanding of the rationale behind this is to expedite the process of clearing the downtown streets during the weekend rush. Although seemingly logical, we believe the proposed modifications are based more on perception than statistical data and factual evidence.

As the largest taxi company in Halifax, representing in excess of 320 vehicles and 350 taxi drivers (more than 50% of all Halifax zoned taxis), with a computerized dispatch system, we are in a position to provide evidence required for you to make an informed decision on this matter. Attached to this letter you will find a consolidated printout of the most recent 3 months (March 11, 2012 through June 11, 2012) of trip data. This information is broken down by each day of the week and shows:

- the total number of taxi requests per hour,
- the full time of dispatch by segmented interval (the time between receiving the call and the customer sitting in their booked car),
- customer service level (the % of customers who have received their taxi within a 15 minute threshold), and
- the total number of taxis operating per hour.

In summary, the historical data shows that the proposed expansion of the zone free time is unnecessary given that the demand for taxi service falls sharply between 3:00am – 6:00am on the effected days. More importantly, the customer service level remains extremely high with ~96% to 98% of all calls between midnight and 6:00am on Thursday, Friday, and Saturday over the past three months being fully serviced within 15 minutes (i.e the time between when the call is received and when the customer is seated in the car).

It is my hope that at your convenience, you may have time to discuss these matters, and that I may be of assistance in answering any questions you may have as it pertains to the taxi industry in HRM.

Thank you for your consideration in this matter. I can be contacted by telephone at 902-491-5150, or by email at bherman@casinotaxi.ca.

Yours sincerely,

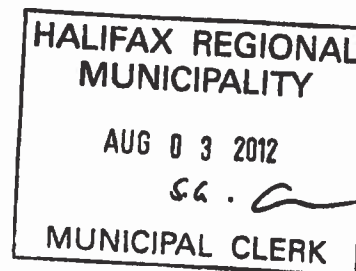
Original signed

Brian Herman
Operations Manager,
Casino Taxi Limited



August 2, 2012

Cathy Mellett
Office of the Municipal Clerk
City Hall 1842 Argyle Street, Main Floor
PO Box 1749
Halifax NS B3J 3A5



Dear Ms. Mellett:

RE: HALIFAX REGIONAL MUNICIPALITY BY-LAW T-108 RESPECTING THE REGULATION OF TAXIS AND LIMOUSINES

I understand that Halifax Regional Municipality ("HRM") is in the process of reviewing By-Law T-108 respecting the Regulation of Taxis and Limousines (the "By-Law"). The By-Law governs a variety of matters relating to taxi and limousine operations in HRM, including the setting of fares charged by taxi drivers for trips from Halifax Stanfield International Airport (the "Airport") to destinations within HRM. I am writing on behalf of Halifax International Airport Authority ("HIAA") to request that the By-Law be amended to provide that taxis and limousines transporting passengers from the Airport to destinations in HRM will use the rates established by HIAA. We believe this change would reflect the legal authority that HIAA has to set these fares and would eliminate confusion among taxi and limousine drivers regarding HIAA's authority to govern its ground transportation matters.

HIAA has previously established the fares for taxi and limousine trips originating from the Airport and made adjustments as required. However, several years ago HIAA and HRM cooperated in the establishment of fares and other matters affecting taxi and limousine operations in HRM and Airport fares were directly referenced in the By-Law. Since that time HIAA has voluntarily submitted its proposed fare schedule to Municipal Council for approval, and fare changes are now made by administrative order of Council. However, we submit our proposed outbound fares to Council for approval as a courtesy, and in our view such approval is not in fact legally required.

HIAA is a federal undertaking operating on federal land. As such, it has the legal authority to make rules and regulations regarding its ground transportation system. When the Ministry of Transportation operated the Airport, the Minister had the authority, by common law and under various regulations, to manage ground transportation at the Airport in the interest of proper airport management. These responsibilities were turned over to HIAA in 2000, when management of the airport was transferred to HIAA under its ground lease with Transport Canada. Subsequent court decisions have confirmed airport authorities' right to manage its ground transportation fleet.

HALIFAX INTERNATIONAL
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HALIFAX REGIONAL MUNICIPALITY BY-LAW T-108 RESPECTING THE REGULATION OF TAXIS AND LIMOUSINES

August 2, 2012

While in most cases our interests are aligned with those of HRM, there are some areas where we do need the flexibility to put processes in place unique to the Airport to ensure that the needs of the travelling public are met. This includes our internal taxi and limousine licensing arrangements and the setting of fares for taxis and limousine trips originating from the Airport. We are in the process of restructuring our ground transportation arrangements in an effort to maximize efficiency. Accommodating the fare setting process under the By-Law limits our flexibility to address operational requirements. In addition, some drivers challenge our authority to make any rules affecting Airport ground transportation because of what they see as HRM's overriding authority to govern taxi and limousine services at the Airport. A by-law that purports to require HRM approval for fares for taxi trips from the Airport reinforces many drivers' views that HIAA is a government entity and the Airport is a public space. This view is not accurate and hinders our ability to operate effectively. HIAA is legally entitled to establish the fares for outbound trips from the Airport, and the By-Law should be amended to reflect the jurisdictional realities.

We do not see this requested change as affecting the cooperative relationship we have today with HRM and the taxi/limousine Licensing Authority. We expect to continue to work very closely with HRM on ground transportation matters and areas of mutual interest. But for the reasons discussed above we believe we have the legal authority to determine fares for taxi and limousines departing from the Airport, and the By-Law should be amended to reflect that reality.

I would be happy to meet with you to discuss this matter further.

Yours truly,


Original signed

Paul Baxter
Vice President, Operations

cc. Mr. Richard Butts



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Transportation Standing Committee
July 5, 2012

TO: Chair and Members of Transportation Standing Committee
Original signed

SUBMITTED BY: Brad Anguish, Director, Community and Recreation Services

DATE: June 18, 2012

SUBJECT: Taxi Medallion Proposal

INFORMATION REPORT

ORIGIN

On April 26, 2012, the Transportation Standing Committee requested a staff report relative to a Taxi Medallion proposal. On May 24, 2012, the Transportation Standing Committee amplified their report request to include taxi license limitations, taxi zones, and the taxi owner license waiting list.

BACKGROUND

A Taxi Medallion Proposal was submitted by industry to the Mayor and Councillors for consideration in July 2011.

On April 26, 2012, authors of the Medallion Proposal made a presentation to the Transportation Standing Committee. Following that presentation and a subsequent meeting of the Transportation Standing Committee on May 24, 2012, a staff report was requested relative to the Medallion Proposal. At that time, staff was also asked to reconsider industry reforms not adopted in a 2008 staff report on issues such as taxi license limitations, taxi zones and the taxi owner license waiting list.

BACKGROUND

The request from the Transportation Standing Committee meeting on May 24 2012, relative to license limitations, taxi zones and the license waiting list, is currently addressed in a separate Transportation Standing Committee report titled "Amendments to Administrative Order 39 and By-law T-108 Respecting Taxi and Limousine Regulations".

DISCUSSION

A "Medallion" is a decal which is placed on the outside of a taxicab to present physical evidence that the vehicle is licensed and can be used as a taxicab. In some jurisdictions such medallions are allowed to be transferred or sold which effectively creates license transferability. In October 2000 the HRM submitted to the Province of Nova Scotia a request to permit license transferability. This request was denied by The Government Legislative Committee as the *Motor Vehicle Act* required amendments. The Medallion proposal currently being put forward is essentially for the purpose of providing taxi owner license holders in the HRM with an opportunity to sell or lease their Medallion.

HRM's current standard is that taxi licenses are non-transferable. This direction and standard was re-affirmed by the following motion of Regional Council on June 17, 2008:

"MOVED BY Councillor Karsten, seconded by Councillor Sloane, that Taxi owner and driver licenses continue to be non-transferrable. MOTION PUT AND PASSED.

Legal Perspective:

In Nova Scotia, the authority for a municipality to regulate and license taxis' is expressly set out under the *Nova Scotia Motor Vehicle Act* (MVA) section 305. Further, MVA section 306 restricts the powers of municipalities in the regulation, licensing or identification of vehicles to the powers set out in the MVA. By definition a licence is an authorization to do something and accordingly the MVA would not support turning a licence into a personal property. In addition, the proposed concept is premised on privately owned medallions, and that HRM could only issue licences to individuals holding a medallion. The MVA section 305(4)(a) imposes an annual license fee that municipalities can charge and section 305(4)(d) prevents the municipality from limiting either directly or indirectly the number of vehicles, drivers or types of passengers of accessible taxis, therefore such a concept could not apply without an amendment to the MVA.

Another concern presented by the medallion proposal is in respect of its revenue raising aspect. Under section 92 of the *Constitution Act, 1867*, the provinces (and by necessary implication municipalities) must raise revenues by direct taxation i.e. provinces can not raise revenue unrelated to the costs of providing a service except by imposing a direct tax. Therefore a medallion fee would be invalid if it is unrelated to the cost any service provided by the municipality, (otherwise its primary purpose would be to raise revenue and as such would be an indirect tax). To obtain the suggested revenues HRM would have to impose such a tax rather than a fee, and this would also require amendment to the MVA to allow this form of taxation.

An artificially restricted supply of owner licenses institutes economic barriers for taxicab ownership thereby permitting the holders to earn significant economic rents or profits upon their sales. In such a system the greatest beneficiary is almost exclusively the first owners who are normally grandfathered. New entries into such a taxi system are faced with huge financial overheads due to the Medallions artificially inflated value from limitations, or when a driver can't afford a Medallion they must enter into a lease arrangement and not subject to regulation.

Other Municipalities:

Historically the focus within systems which have transferability has been on preserving the value of the owner license while protecting investment by opposing the issuance of new licenses. These systems require restricted license issuance to maintain the value of a transferable license. Owners in these structures do not necessarily operate these vehicles and therefore for the most part, do not contribute value to the industry nor concern for the actual on-road performance of the licenced taxi and the quality of its service.

In an attempt to improve industry service deliverables, through an owner operator focus, other municipalities that have license transferability are considering reforms or have amended the way owner licenses are issued. Examples of these changes by some municipalities include limits to transferability and restrictions to ensure owners are the taxi operators.

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, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The HRM's Taxi Medallion proposal has been reviewed at the Taxi Liaison Committee. The Committee encouraged staff further review the Medallion proposal prior to making recommendations to the Transportation Standing committee.

ENVIRONMENTAL IMPLICATIONS

None identified.

ATTACHMENTS

None.

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

Report Prepared by: Andrea MacDonald, Manager, License Standards, 490-7371

Original signed

Report Approved by:


Jim Donovan, Manager, Municipal Compliance, 490-6224
