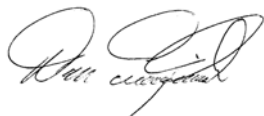


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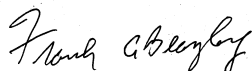
**Halifax Regional Council
December 11, 2007
Committee of the Whole**

TO: Mayor Kelly and Members of Halifax Regional Council



SUBMITTED BY:

Dan English, Chief Administrative Officer



Frank A. Beazley, Chief of Police

DATE: December 5, 2007

SUBJECT: Taxi Owner Licence Issues

ORIGIN

Motions of Regional Council from February 13, 2007, requesting a staff report exploring the following issues:

- Part 1 - issue of owners leasing of roof lights (owner licence) & individuals owning more than one owner licence;
- Part 2 - the possibility of removing the cap (limitations) on owner licences;
 - the number of individuals on the owner waiting lists;
 - how long they have been waiting; and
 - what consideration will be given to them
- Part 3 - how to control the price and value of taxi owner licences.

Recommendations start on Page 2

RECOMMENDATION

It is recommended that Regional Council:

1. Approve in principle, that:
 - (a) limitations on the number of taxi owner licenses that may be issued in Halifax Regional Municipality be eliminated;
 - (b) taxi owner licenses only be issued to taxi drivers licensed and in good standing in the HRM;
 - (c) taxi owner licenses be limited to one per licensed driver;
 - (d) taxi owners licenses be cancelled if the licensed driver loses his or her taxi driver's license;
 - (e) taxi owner and driver licenses continue to be untransferable; and
 - (f) Zones within the HRM be eliminated.
2. Instruct staff to bring forward amendments to By-law T-108 to formally enact into law the items approved in principle in recommendation number 1.

BACKGROUND

Part 1 - issue of owners leasing of roof lights (owner licence) & individuals owning more than one owner licence;

Council requested information on the issues related to leasing of taxi owner licences (roof lights).

The leasing of taxi roof lights or the transfer of owners 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 as follows:

"owner" means a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this By-law.

The underlined portion of the extended definition of "owner" was included to cover the economic reality that few people actually own their motor vehicles outright. Rather, they hold them pursuant to conditional sales agreements, leases or chattel mortgages. In such cases, the legal owner is generally the financial institution which advanced the money to purchase the vehicle. Therefore this extended definition was included to cover this situation so that the beneficial owner of a taxi vehicle

could license it, notwithstanding the fact that technically he or she was not the legal owner of the vehicle.

Some individuals have taken advantage of this extended definition to their economic advantage and as a means to get around the provision of the By-Law prohibiting the transfer of owner licenses. As an example, assume a licensed taxi driver (individual A) owns a vehicle which is not a licensed taxi. Individual B holds a taxi owner's license (roof light), but temporarily does not own a vehicle. Individual A leases vehicle to individual B who then registers the vehicle to his taxi owner license. Individual B then allows Individual A to drive the vehicle for a monthly fee. Individual A (the actual owner of the vehicle) continues to be responsible for all the expenses of maintaining and operating the vehicle. Individual B's only investment is the \$50.00 annual taxi owner license fee.

On March 27, 2007, the Insurance Bureau of Canada issued a notice to Taxi Owners and Operators of Nova Scotia. The notice advised *it is imperative that all leasing agreements, formal or informal, are reported to the insurance provider and unless coverage is expressly given by an endorsement of the policy the insurer shall not be liable under this policy when the automobile is rented or leased.*

The aforementioned has resulted in the holder of an owner licence, who has a lease agreement, being required to have their name added to the insurance policy for the vehicle registered to their owner licence. Prior to the notice from the Insurance Bureau of Canada, there were 273 overall lease agreements in the industry, this number dropped by 42 since that time.

Council requested information on the issues related to multiple owner licence holders.

Prior to limitations being introduced in the Halifax and County zones, multiple licence holders were permitted. On a go forward basis, the regulations which introduced limitation in these zones, also eliminated the possibility of an owner licence being issued to a non licenced taxi driver or a company. It also prevents an owner licence from being issued to someone already holding an owner licence in that zone. However, holders of multiple licenses prior to the new regulations being introduced did not lose their licenses and for the most part continue to hold them. Currently Halifax has 610 owner licences, County has 190 owner licences.

Limitations in the Dartmouth zone is currently set at 200 owner licences. However, the current regulations do not prevent multiple licence holders and allows for anyone, person or company, to submit an application for a Dartmouth owner licence.

Part 2 - the possibility of removing the cap (limitations) on owner licences, the number of individuals on the owner waiting lists, how long they have been waiting, and what consideration will be given to them.

Council requested information on the issues related to removing the cap on the number of owner licences.

In January 1994, Hara Associates of Ottawa, Ontario were appointed to investigate the matter of taxi limitation in the City of Halifax. The Final Report of Hara Associates was submitted to the City of Halifax in June 1994.

The Hara Report made recommendations regarding the future of the Halifax taxi industry. The majority of recommendations were adopted, yet those regarding limitation, although recommended by staff, were not supported nor implemented by the Council of the day. The following table details some of the recommendations.

Recommendations of Hara Associates	
1.	Any reform to the Halifax taxi regulations should preserve the strong owner/driver character of the current system.
2.	Establish indirect limits on the number of drivers by focusing on stringent driver training, a full cost-recovery for tuition fee, increased regulatory enforcement, and fund the increased enforcement through higher licence fees.

The Report recommended against specific limitations on numbers of vehicles.

Since 1995, the Municipality has limited the number of owner licenses that are available and maintained taxi zone restrictions. The results of which has limited the traveling public's freedom of choice and the freedom of choice of individuals in the industry who wish to operate taxicabs or establish taxi companies in the Municipality. The Hara Report recommended that any reform to the regulations should preserve the strong owner/driver system. (attached as Appendix A)

Council requested information regarding the number of people currently on the owner waiting lists, how long they have been on the lists and what consideration can be given to them.

Reference the waiting list details included in chart (attached as Appendix B).

Part 3 - how to control the price and value of taxi owner licences.

Council requested information on what measures could control the price and value of a taxi owner licences.

The authority which gives a municipality the right to regulate licencing by municipal by-law for vehicle for hire services, is provided by Section 305 (1)(b) of the Motor Vehicle Act of Nova Scotia, which states:

305 (1) The council of a city, town or municipality may make regulations or by-laws regulating and licensing;

(b) persons transporting for hire by means of any vehicle, passengers or goods within the boundaries of said city, town or municipality except where such persons are public utilities as

defined in the Public Utilities Act or are motor carriers who are required to be licensed under the Motor Carrier Act;

Also Section 305 (4)(a), of the Motor Vehicle Act, dictates what a municipality can impose as an annual licence fee for such vehicle licences, as follows:

305 (4) Such regulations or by-laws shall not

(a) impose an annual license fee of over fifty dollars per vehicle in the case of cities, and twenty-five dollars per vehicle in the case of towns and municipalities.

DISCUSSION

Part 1 - Issue of owners leasing of roof lights (owner licence) & individuals owning more than one owner licence;

It is common knowledge in the industry that the current practice described above of transferring ownership of vehicles and then leasing them back is a legal fiction. In most cases and in actual fact the holder of the owner licence is being compensated for the use of the owner licence (roof light) by a taxi driver that can not obtain their own licence due to limitations. Compensation in these cases have been reportedly as high as \$5,000.00 + per year.

Some reasons why the aforementioned agreements are in place:

- the holder of the owners licence no longer works in the industry but wants to keep the licence;
- the holder of the owners licence is profiting from the \$50.00 per year HRM owner licence, by charging a fee for its use;
- the licence holder has more than 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.

Reference the eligibility criteria included in chart (attached as Appendix B).

Amending the regulations governing the eligibility and issuing of owner licences results in a standard criteria that would:

- prohibit a new taxi owner licence from being issued to anyone who currently holds a taxi owner licence; and
- provide that a taxi owner licence only be issued to a licenced taxi driver and the driver must maintain a valid taxi driver licence in order to maintain the owner licence.

Part 2 - The possibility of removing the cap (limitations) on owner licences, the number of individuals on the owner waiting lists, how long they have been waiting, and what consideration will be given to them.

The introduction of limitations has significantly reduced the opportunity for a taxi driver to have and operate their own owner licence (roof light). In the absence of limitations, taxi drivers would have a choice to work for themselves, start their own business or work for someone else. In a free market economy the number of owner licenses is established by an equilibrium achieved between supply and demand, while also promoting:

- an owner/operator supported system as recommended By the Hara Report;
- freedom of choice for the traveling public and increased services; and
- entrepreneurship in communities which currently do not have taxi services or a taxi company due to limitations.

Currently the Halifax owner waiting list contains the names of 304 Halifax taxi drivers. It is noted that this number may not accurately reflect the number of Halifax Taxi drivers wishing to obtain licenses as the names of all newly licensed drivers are automatically put on the waiting list. Additionally it is noted that there are currently 173 Halifax owner licenses being operated in connection with lease agreements. It is assumed that given the opportunity, these latter drivers would certainly opt to obtain their own taxi owner licenses (roof lights) rather than “lease” them for the high costs currently paid.

The Dartmouth owner waiting list contains the name of 107 individuals or companies and there are currently 58 owner licenses being operated in connection with lease agreements.

The County owner waiting list contains the name of 7 County taxi drivers and there are currently 3 owner licences being operated in connection with lease agreements. It is noted that in the County new drivers are not automatically added to the waiting list, but rather must make application.

Council should consider eliminating the owner waiting lists by removing limitations and thereby allow every licenced taxi driver who currently does not hold a taxi owners licence in their own name the option to do so. This would have the effect of removing all value from current multiple license holders who do not own their own vehicles and eliminate the market in leasing of roof lights.

Part 3 - How To Control The Price And Value Of Taxi Owner Licences

Prior to a taxi owner licence being issued to an individual, that individual must first meet the requirements prescribed in By-law T-108. When an individual is issued such a licence, that individual is also held accountable to ensure that said licence is operating in compliance with all regulations. It is therefore the position of the Halifax Regional Municipality, that taxi owner licences are non transferable. The aforementioned is also consistent regarding a deceased individual holding an owner licence. The licence issued to that individual no longer exists.

Most municipalities continue to regulate taxi industries through some degree of licensing of taxis and drivers. Whereas the taxi industry is a privately owned and operated business, the municipalities role should be in public safety and not be directly involved in the economic viability of the industry.

Therefore municipal regulations should focus on ensuring the following:

- regulations that control licencing fees and promote equal opportunity for people entering or working in the industry;
- vehicle safety and appearance is adequately maintained and easily identifiable;
- vehicles and drivers are adequately insured and licensed; and
- a maximum rate schedule is established.

Maintaining limitations and permitting transferability of owner licenses would create a market for the sale of these licenses which would drive up the cost of entry to the industry and put increased pressure on Council to grant fare increases. In staff's opinion, the price of entry into the industry can best be maintained at a minimum level by eliminating the limitations on the number of vehicle licenses issued, continue to prohibit the transferability of owners licenses, require taxi owners to be taxi drivers, restrict the number of licenses to be issued to any driver to one, eliminate zones and allow entry into the industry to be governed by free market forces.

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.
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: Hara Report Recommendations

Appendix B: Eligibility Criteria and Waiting List Details Chart

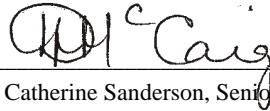
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Robin McNeil, Staff Sergeant, Halifax Regional Police, 490-4817



Report Approved by: _____
Tony Burbridge, Deputy Chief, Halifax Regional Police, 490-6500

Financial Approval by:



for Catherine Sanderson, Senior Manager, Financial Services, 490-1562

Appendix - A

Limits on Taxicab Vehicles Not Recommended

The experience of other cities reveals that limiting taxicab vehicle licences, or "plates" tends to lead to this undesirable situation:

- Establishment of a private market value for plates, whether or not transfer is permitted.
- Elimination of the owner/driver system as brokers buy up plates to protect and extend market share.
- Unnecessarily high fares and longer customer waiting times for taxis.

The situation tends to be an politically irreversible "policy trap" because, once plates change hands for significant sums of money, there is a group of people who would be bankrupted by restoration of an open entry-system. There are means by which transfer may occur even if licences are defined as "non-transferable".

Recommendation: Limitations should only be considered if they can avoid the policy trap experienced by most jurisdictions: rising plate values, the elimination of owner/drivers, longer waiting times, and inflated fares.

Indirect Limits on Driver Licences Recommended

There are advantages to both passengers and drivers in establishing limits. The limits prevent an unnecessary influx of new drivers during a recession, with consequent reductions in service quality and lowering of driver incomes.

Explicit numerical limits for driver licences are rejected because of administrative difficulties in determining when licences should be retired and replaced, and the difficulty of determining the correct number of licences on a year by year basis.

Instead, indirect methods are recommended which rely on simultaneously improving quality of service and making it more difficult to become a taxi driver. The intended result is that only new drivers who are willing to work to obtain the qualifications and are committed to the industry will enter the industry.

Recommendation: Licence limitation should be focused on taxi driver licences not vehicle licences. Limiting vehicle licences will eliminate the Halifax owner/driver system, and lead to long-term degradation of service quality. The net result would be the classic policy trap of high plate values, longer waiting times, and unnecessarily high meter rates seen in most North American cities. On the other hand, limiting driver licences can have beneficial effects on service quality, and preserve the owner/driver system.

Recommendation: Limits on drivers should not be an explicit number or formula. Instead, indirect methods should be used to limit the number of new drivers to the best qualified and most committed to the industry.

Recommendation: That Halifax establish indirect limitations on the number of drivers through the following measures:

- Increase Taxi School to 40 hours of instruction. (Recommended in Chapter 2 as well).
- Charge a full cost-recovery tuition fee for the Taxi School.
- Ensure a stringent licence test, whose terms are well known to all potential candidates.
- Increase level of regulatory enforcement on both drivers and vehicles according to a program developed in consultation with the industry (as per recommendations in Chapter 2)
- Fund the increased level of enforcement through higher annual licence fees.

The above program limits the number of drivers indirectly in three ways. The longer hours and full cost recovery of the tuition fee provide an initial test of commitment. Correcting deficiencies in enforcement noted in Chapter 2 ensure that drivers expect to have to maintain a professional vehicle, and professional decorum. The increase in fees ensures that drivers who remain registered are more likely to have a commitment to the industry. The recommended indirect limits also have these advantages:

- They build on the consensus in the industry for improving the Taxi School and improving and increasing regulatory enforcement.
- The increase in fees is re-invested in the industry, promoting service quality and expanded use of taxi services. This answers some of the concerns of the industry over higher fees.
- There is no need to explicitly decide the number of drivers required. The number of drivers will adjust automatically. When new drivers are really needed, taxis will be busy enough that the higher income will attract new drivers despite the tuition fees and other barriers. When new drivers are not needed, as in a recession when business is bad, the barriers will effectively screen out all but the most qualified and committed new drivers.

Hara Associates

APPENDIX 'B'

Zone	Eligibility Criteria	Waiting List Details
Halifax	<ul style="list-style-type: none"> - individuals must have a valid Halifax taxi driver licence; - the driver does not hold a taxi owner licence in their own name; - the driver does not hold a taxi owner licence in the name of a corporation which the taxi driver is a shareholder; and - a driver must maintain a valid Halifax taxi driver licence to remain on the waiting list. 	<ul style="list-style-type: none"> - July 2002, a lottery draw established the Halifax owner waiting list consisting of 243 Halifax licenced taxi drivers not holding an owner licence (roof light). - Since July 2002, 105 Letters Of Offer have been issued, of which 31 this year 2007. - The last name included in lottery draw, that is still eligible, is currently number 81 on the Halifax list. - The Halifax list currently contains the names of 304 licenced taxi drivers.
Dartmouth	<ul style="list-style-type: none"> - Any person or company can submit an application for an owner licence in Dartmouth and once a licence has been issued they can re-submit another application. 	<ul style="list-style-type: none"> - October 1989, Dartmouth established a waiting list, based on application date for anyone wishing to apply for a Dartmouth Owners Licence. - The name currently in the number one position, applied on January 2002. - Currently the Dartmouth owner waiting list contains the names of 107 individuals or companies
County	<ul style="list-style-type: none"> - individuals must have a valid County taxi driver licence; - the driver does not hold a taxi owner licence in their own name; - the driver does not hold a taxi owner licence in the name of a corporation which the taxi driver is a shareholder; - a driver must maintain a valid taxi driver licence to remain on the waiting list; and - only County licenced taxi drivers can submit an application for an owner licence. 	<ul style="list-style-type: none"> - May 2004, a lottery draw established the County owner waiting consisting of 49 County licenced taxi drivers not holding an owner licence (roof light). - Since May 2004, 69 Letters of Offer have been issued, of which 46 this year 2007. - The last name included in the May 2004 draw, was issued a Letter Of Offer for a County owner licence in January 2007. - Currently the County owner waiting list contains the names of 7 licenced taxi drivers.