



MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

600 North Robert Street
Saint Paul, Minnesota 55101

Mailing Address:
P.O. Box 64620
St. Paul, Minnesota 55164-0620

July 3, 2014

Voice: (651) 361-7900
TTY: (651) 361-7878
Fax: (651) 539-0300

Shari Moore
City Clerk
City of St. Paul
290 City Hall
15 W Kellogg Blvd
Saint Paul, MN 55102

RECEIVED
JUL 07 2014
CITY ATTORNEY

Re: *In the Matter of the Taxicab Driver's License held by Patrick Emmet
Murphy for the City of St. Paul*
OAH 5-6020-31563

Dear Ms. Moore:

Enclosed and served upon you is the Administrative Law Judge's **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** in the above-entitled matter. The official record, with the exception of the recording of the hearing, is also enclosed. If you would like a copy of the recording, please contact the Office of Administrative Hearings in writing, by telephone at 651-361-7898, or by e-mail at Suzanne.segl@state.mn.us. The Office of Administrative Hearings' file in this matter is now closed.

If you have any questions, please contact my legal assistant Kendra McCausland at (651) 361-7870 or kendra.mccausland@state.mn.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Mortenson", with a long horizontal flourish extending to the right.

JIM MORTENSON
Administrative Law Judge

JRM:klm
Enclosure
cc: Geoffrey S. Karls
Patrick E. Murphy

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE CITY OF ST. PAUL

In the Matter of Taxicab Driver License
held by Patrick E. Murphy for the City of
St. Paul, License ID #0048592

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

This matter came on for hearing before Administrative Law Judge Jim Mortenson (ALJ) on June 26, 2014, at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota. The record closed the same day.

Geoffrey Karls, Assistant St. Paul City Attorney, appeared for the city of St. Paul (City). Patrick Murphy appeared on his own behalf (Licensee).

STATEMENT OF ISSUE

Whether the Taxicab Driver License held by Patrick E. Murphy should be revoked as a result of the Licensee being found in possession of a significant amount of suspected methamphetamine, marijuana, and cocaine?

SUMMARY OF RECOMMENDATION

The undersigned ALJ recommends that the Taxicab Driver License held by Patrick E. Murphy be revoked.

Upon the evidence presented and the arguments made at hearing the ALJ makes the following:

FINDINGS OF FACT

1. On October 1, 2013, Licensee was arrested in St. Paul near the intersection of Snelling Avenue and Englewood Avenue, after being asked by the police to step out of his taxicab and narcotics were found inside of it.¹ The police investigation was based on a report that Licensee may have been involved in a narcotics transaction.²

2. Licensee admitted to police, following notice of his Miranda rights, that he had sold marijuana to a particular man inside Licensee's taxicab and that he had

¹ Exhibit 4, Testimony of Cort Baumgart.

² *Id.*

previously sold marijuana to that man.³ Licensee admitted that he had additional marijuana in his taxi cab as well as “meth.”⁴ Licensee advised the police that he did not sell “meth,” but rather used it himself to help with long hours driving his taxicab.⁵

3. Licensee was not booked for any alleged crimes and not convicted.⁶

4. Licensee applied for renewal of his taxicab license on April 1, 2014.⁷

5. The City’s Department of Safety and Inspections (DSI) conducted a review of Licensee’s criminal history in April 2014.⁸ Initially, on April 22, 2014, the DSI determined not to pursue adverse action regarding Licensee’s renewal of the Taxicab Driver License.⁹ On May 6, 2014, the DSI changed its determination and decided to revoke Licensee’s Taxicab Driver License due to the October 1, 2013, arrest and admission of illegal narcotics activities in his taxicab.¹⁰

6. A Notice of Intent to Revoke License, dated May 9, 2014, was sent to Licensee.¹¹

7. Licensee requested a hearing before an Administrative Law Judge which was received by the City on May 23, 2014.¹²

8. At the hearing Licensee refused to stipulate to the facts, did not object to the presentation of the City’s evidence, and did not challenge facts or offer any conflicting facts indicating the necessity of an evidentiary hearing.

From the foregoing findings of fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The city of St. Paul and the Office of Administrative Hearings have jurisdiction to consider this matter pursuant to St. Paul Legislative Code §§ 310.05 and 310.06.

2. The City has complied with all relevant procedural requirements of ordinance and rule.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Ex. 6, Ex. 8.

⁷ Ex. 2.

⁸ Test. of Thomas Ferrara, Ex. 1.

⁹ Ex. 1.

¹⁰ Test. of T. Ferrara, Ex. 1.

¹¹ Ex. 6.

¹² Ex. 7.

3. Saint Paul Legislative Code § 310.06 states grounds for adverse license actions. Section 310.06 (b) (6) (a) was specifically identified in the Notice. As a preliminary matter at the hearing the City added Section 310.06 (b) (6) (c) to its list of code violations pertinent to this matter.

4. Code section 310.05 sets forth hearing procedures and, in section (m), provides a matrix of penalties for first, second, third and fourth license violations. According the code, the matrix penalties are presumed to be appropriate for every case, but the code also notes that the city council may deviate in an individual case where the council finds substantial and compelling reasons making it more appropriate to do so. If the council deviates from the matrix, it must provide written reasons why the penalty selected was more appropriate.¹³

5. The City has shown substantial and compelling reasons to revoke the Taxicab Driver License of Licensee. The Licensee's admitted possession, selling, and use of narcotics in relation to the operation of a taxicab pose significant safety issues. The City is justified in limiting the potential danger to the public related to these activities by revoking Licensee's Taxicab Driver License.

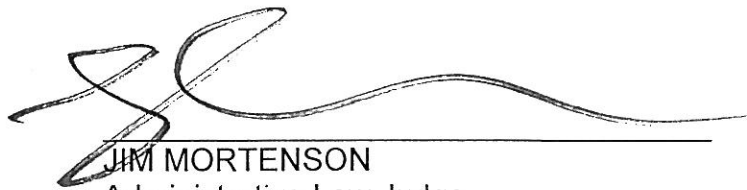
6. The memorandum attached hereto is incorporated by this reference.

Based upon these conclusions of law, and for the reasons stated in the attached memorandum, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the city of St. Paul **REVOKE** the Taxicab Driver License of Licensee.

Dated: July 3, 2014



JIM MORTENSON
Administrative Law Judge

Digitally recorded; no transcript prepared

¹³ St. Paul Legislative Code § 310.05 (m).

NOTICE

This Report is a recommendation, not a final decision. The Saint Paul City Council will make a final decision after a review of the record and may adopt, reject, or modify these Findings of Fact, Conclusions, and Recommendation. Pursuant to Saint Paul Legislative Code § 310.05 (c-1), the City Council shall not make a final decision until the parties have had the opportunity to present oral or written arguments to the City Council. Parties should contact Shari Moore, City Clerk, city of Saint Paul, 170 City Hall, 15 W. Kellogg Blvd., Saint Paul, Minnesota 55102, to ascertain the procedure for filing exceptions or presenting arguments.

MEMORANDUM

The Licensee has not been charged with or convicted on any crimes. Nonetheless, the Licensee has admitted that he sold, possessed, and used narcotics in his taxicab. Despite Licensee's argument that he has not been prosecuted for any alleged crimes, the City can consider these admissions in making its licensing decisions.

The sale and use of illegal narcotics in conjunction with the operation of a taxicab are substantial and compelling reasons, making it appropriate for the City to revoke the Licensee's Taxicab Driver License. The city of St. Paul, and the public in general, are entitled to be safe from the potential violence often associated with illegal drug trafficking and impaired driving. The revocation of the license, in this case, is a logical remedy to mitigate the risks associated with the Licensee's admitted illegal activities in his taxicab.

Finally, the purpose of an evidentiary hearing is to permit an impartial neutral to make determinations of disputed facts.¹⁴ Given the Licensee's failure to reasonably dispute the facts and to refuse to stipulate to facts, the City may consider, pursuant to St. Paul Legislative Code § 310.05 (k), whether to impose costs of the contested hearing on the Licensee. Specifically, the City may consider whether § 310.05 (k) (i) and (ii), or any other provisions of that paragraph apply. No further recommendation is made by the ALJ with regard to this provision because the City did not move for imposition of costs and no arguments were made or presented to the ALJ to consider. Arguments may be heard by the City Council if the City wishes to pursue costs.

J. R. M.

¹⁴ St. Paul Legislative Code § 310.05 (c).