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Overview
Taxicab v. Uber

June 8, 2018

The Honourable Doug Ford
Premier of Ontario
Legislative Building, Queens's Park
Toronto, Ontario
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Premier Ford,

Congratulations are certainly in order for the Progressive Conservative Party (PC's) becoming the governing Party in the Province of Ontario, as a change at Queen's Park was well overdue. The Ontario Liberal Party's reign from 2003 to 2018, did not responsibly reflect what the citizens of this Province required and achieved only in driving up the debt from 138.8 billion dollars to almost 320 billion dollars during those years, which needs to be addressed quickly and in earnest.

There is no doubt that you and your party have some difficult times ahead of you to try and straighten out the mess left by the Ontario Liberal Party, but it is imperative that you take a look at how municipalities throughout Ontario have been licensing their taxi industries since Private Transportation Companies (PTC's) like Uber Technology (Uber) came into the marketplace.

When the Municipal Corporation Act (1849) also known as the Baldwin Act was enacted, it gave towns the authority to make by-laws for the regulation and licensing of owners of taxis and in the case of the City of Toronto (City), it passed by-laws dealing with licensing of taxis as early as the 1840's, but times have changed showing municipalities, especially Toronto, haven't conscientiously kept up.

With municipalities growing and some becoming mega centres having to deal with enacting legislation dealing with the complexities of our modern-day society and its ever-changing landscape, it has come to the forefront that many municipalities do not have the expertise to deal with all of the issues that are arising in their taxi industries and perhaps a change in governance needs to be explored.

Many municipalities have shown they are far from mature and responsible governments, so perhaps those taxi licensing powers presently given to them by the Ontario Municipal Act (2001) and in the case of the City, through the City of Toronto Act (2006) need to be handed back to the Province with the idea of looking into

regional rather than municipal legislation with the plan to have laws deal with a more blended transportation system covering larger areas.

As requirements and changes for consumers are studied, which allegedly was the case surrounding recent by-laws passed by several municipalities involving PTC's, it was incumbent on these municipalities to ensure that any change in those by-laws reflects not just what the consumer requires or expects, but consideration must be given for the taxi industry memberships' decades of investment and service to the communities where they operate.

The Province, upon investigation into the issues listed in the following 12 bullet lines, will quickly find out that the taxi industry memberships were given no such consideration. These concerns and lack of respect for the taxi industry will clearly show that it is well overdue for municipal taxi licensing, especially in the Greater Toronto and Hamilton Area (GTHA), to come under provincial statute so that a level of fairness for the taxi driver is re-established as well as addressing consumer safety.

Municipalities Have Created Situations That:

- *The irresponsible licensing of PTC's has magnified a very poorly thought out and ill-advised government idea known as a "Shared Economy" that succeeds only in eliminating thousands of full-time jobs and replaces them with part-time workers, who pay little if any into a retirement fund or government tax structures, yet will require the government in 25-30 years to financially support these part-time workers through their retirement and old age;*
- *Caused the loss of 60% of the taxi business and 75% of the value of the taxi licence to date;*
- *Puts the taxi consumer in peril as public safety has been compromised;*
- *Failed to consider decades of membership service and sacrifice to build the industry;*
- *Allows the PTC's to self-regulate their operations;*
- *When, or if, provincially mandated major stakeholders' taxi industry meetings are held, municipalities come with preconceived notions and hidden agendas already in mind on how to deal with all taxi industry issues;*
- *They should have listened to the taxi industry, but for the most part disregarded what the taxi members were saying;*
- *Terminated the decades long social contract that existed between the taxi industry membership and the municipality;*

- *Municipalities' decisions have led to not only financial difficulties for the taxi memberships, but the financial futures of their families as well;*
- *Did not offer any compensation for the financial devastation that changing the configuration of the industry caused the industries' members and their families;*
- *Allowed unfettered vehicle access into the marketplace that had always been regulated to ensure both public safety and a reasonable opportunity for the taxi members to earn a living;*
- *In some cases, no grandfathering in, or notice given for prior to the date of implementation.*

The remainder of my letter is going to deal with specific facts, figures and circumstances surrounding the City, but Queen's Park can now see by the previous comments, this is not just a singular municipal issue, it involves many municipalities throughout Ontario that did not sensibly deal with the implementation of PTC's and is why a provincial intervention is immediately required.

The City was supposed to review the Toronto Municipal Code Chapter 546, Licensing, Vehicles-for-Hire by-law on July 15, 2017, one year after its implementation, but as of this letter 23 months later, that review has yet to happen and it's reported by Ms. Tracey Cook, Executive Director of Municipal Licensing and Standards ("ML&S") that it is unlikely to happen until sometime in 2019.

Not only is Chapter 546, which now includes PTC's and their drivers unfair, it violates the 4th cornerstone of the last taxi reformation of 2011 through 2015 that was added by city council, which was supposed to ensure the economic viability and sustainability of the taxi industry.

Neither prior to, during or after that reformation did the City hold any taxi industry meetings to discuss a PTC program, which are mandated to be held by the Province and when the by-law was implemented on July 15, 2016, it was done without notice.

Let's first look at the licensing revenues that the City is collecting from all of the PTC's and the tax implications and financial impact on the taxi industry. For the reporting period mentioned in this letter, which is alleged to be from July 15, 2016 through November 2017, when the vast majority of those funds came from Uber as the other four brokerage licences were only recently issued.

Mr. John Duffy, publisher of Toronto's Taxi News, which is a monthly publication reporting on taxi industry issues, wrote an interesting article on this that was featured in the April, 2018 edition. Part of that article included the dollar amounts surrounding

licensing revenues generated by PTC's and those numbers were provided by Ms. Tammy Robinson of the ML&S Strategic Communications.

My Letter Adds Some Additional Calculations to Mr. Duffy's Original Report:

- *Initial PTC application fee of \$20,000. Revenue \$100,000 showing 5 licences were issued;*
- *Annual PTC licensing fee of \$15 per driver. Revenues of \$801,700 shows 53,447 drivers and their vehicles are working in PTC's in the City and growing exponentially on a daily basis;*
- *PTC licensing fee of \$0.30 per trip mostly from Uber X operators during this period showed revenues of \$7,620,000. This does conjure up some very interesting questions that need to be asked and answered. Since the Province of Ontario mandates licensing revenues must be on a cost recovery basis, how does this scenario apply here;*
- *The reasons behind the \$0.30 per trip fee was those revenues were supposed to go to the financing and sustainability of the Toronto Taxi Licence (TTL) operators in purchasing and operating very expensive wheelchair accessible vans to meet the provincially mandated on-demand servicing of the disabled and cognitively community, yet those operators as of this date, to my knowledge, have not received one penny of those per trip fees;*
- *Interesting to note, that the on-demand wheelchair accessible service to the disabled and cognitively impaired communities is the responsibility of the municipality as stated in Ontario Regulation 191/11 Section 79 (3) not the PTC's or the vehicles-for-hire TTL operators who have been shouldered with the entire financial costs and upkeep of providing these vehicles;*
- *It is also my understanding that Uber charges each of its Uber X drivers a \$1.00 surcharge on each trip to pay for this \$0.30 per trip fee, so in addition to the City making \$7,620,000 from this fee, it shows PTC's made \$0.70 per trip from this \$1.00 surcharge or \$17,780,000, which in my mind constitutes an illegal licensing fee;*
- *At \$0.30 per trip the fee divided into \$7,620,000 collected by the City shows 25,400,000 trips were serviced during this time period and if you consider a PTC trip fee on average, although less than a taxi fee, it would still be in the range of \$9.00 per average trip, showing approximately \$228,600,000 in total revenue;*
- *PTC's charge 20% on each fare to most of their drivers and up to 35% to their black car drivers. Even if you take the lower 20% figure, on \$228,600,000,*

that works out showing PTC's, predominately Uber during this time period, profited \$45,720,000 in actual trip revenues;

- *Since the Excise Tax Act definition of a taxi business has changed to include "if the transportation is arranged or coordinated through an electronic platform," which was effective July 1, 2017, perhaps it would be prudent if Revenue Canada checked to see if the 5 Toronto licensed PTC's and their 53,447 drivers in Toronto during this reporting period applied for GST/HST numbers as required or even filed GST/HST returns in 2017 that reflects at least the applicable portion of the approximately \$228,600,000 in revenues made during this period or if they filed their required income tax;*
- *The total licensing revenues from PTC's paid to the City was \$8,523,000 for this period and when coupled with the millions the City already makes from the taxi industry in licensing fees, how does this relate to a cost recovery basis only;*
- *All of the above quoted figures apply only to the City of Toronto so a similar investigation by Revenue Canada into every municipality in Canada operating PTC's will, I am sure, show millions more in tax revenues that were not paid.*

The City's PTC program has had numerous negative effects on the established taxi industry, their customers and the public at large. With city council approving recommendations from the Licensing and Standards Committee ("LSC") and the ML&S staff that was in conflict with the by-law, violated both provincial statute and a city council directive, it shows the City lacks maturity, industry knowledge, responsibility and integrity while putting public safety at risk.

Other Points of Hardships for the Toronto Taxi Industry Membership:

- *The Toronto Municipal Code Chapter 546, Licensing Vehicles-for-Hire (By-law) does not contain a fair and level playing field as stated by Mayor John Tory;*
- *With the industry being in severe financial difficulties, it shows this by-law is in contravention of a City Council directive that was passed on October 2, 3, and 4 2012 that stated "The taxicab economic viability and sustainability of the taxi industry be added as a 4th key principle on the taxicab industry review;"*
- *As of November 2017, there were approximately 53,447 PTC vehicles and drivers; 5500 taxicabs with 9,000+ drivers; 1,200 liveries and their drivers and 750 Greater Toronto Airport Authority (GTAA) vehicles and their drivers operating in the City that can financially support 3,500 vehicles at best and these numbers do not include a few hundred illegal carriers;*

- *By allowing unfettered vehicle access into the City's taxi industry that was once regulated to protect the taxi using public and give the taxicab driver a reasonable opportunity to earn a living, neither of these two points now exists;*
- *The only gain in all of this was the City enhancing their annual and renewable licensing issuing revenues that if investigated would show violates the Province's rules that licensing revenues must be on a cost recovery basis only;*
- *The City disregarded a program already in place that covered PTC's (Hailo) within City regulations;*
- *The City allowed Uber and their drivers, to operate for over 3 years with impunity outside of any rules, regulations, by-laws or fear of accountability in the courts. The taxicab industry during those 3 years could not compete, as they were regulated under the Toronto Municipal Code, Chapter 545, Licensing, while PTC's were not.*
- *If you take the approximate 5,500 taxicabs licensed by the City, the 25,400,000 trips serviced by the PTC drivers works out to each taxi losing 4,618 trips over the 16-month reporting period or about 10 trips per day and at an average trip price of about \$13, each taxi is losing \$130 per day;*
- *PTC drivers pay a \$15 driver's application and annual licence renewal fee while the taxi driver pays \$130 for each category;*
- *It is questionable whether the \$15 PTC driver's licensing fee is in fact a City licence at all and not just an annual application fee as the City in the end does not issue the licence that is done by the PTC itself;*
- *Taxicab owners paid a \$964.86 in 2017, which might increase in 2018, while an annual owner's renewal fee for PTC vehicle owner does not exist and the vast majority of PTC licensing categories named in the by-law pay substantially fewer licensing fees if any than their taxi counterparts;*
- *A taxicab owner is restricted by by-law mandate on what vehicle is allowed to be used as a taxicab in the City, but a PTC vehicle owner's only requirement is that the vehicle be a four-door sedan;*
- *A taxicab is mandated to be equipped with a taxi meter;*
- *A taxicab is mandated to have an in-car digital camera approved by the ML&S for driver and consumer safety, yet the PTC vehicle does not require the in-car camera;*

- *A taxicab is mandated to have an emergency lighting system, but a PTC vehicle is not;*
- *Neither the in-car digital camera, emergency lighting system or the taxicab meters are checked anymore by the City to see if they are operational;*
- *The City's actions have left the 10,000 members of the Toronto taxi industry and their families in financial peril and on the brink of bankruptcy*
- *Although many categories mentioned in Chapter 546 do the exact same job, they do not necessarily require or pay for equivalent licences and applicable licensing fees. Some may be required to obtain 2 licences; some are required to obtain 1 licence and some are required to have no licence at all;*
- *Ontario R.R.O. 1990, Reg.625: Tire Standards and Specifications has no provincial mandate for snow tire usage in this Province, yet taxis in Toronto are mandated to have snow tires or all-weather tires on all four wheels from December 1 to April 30, yet no other City operated fleet, resident or visitor to the City requires them;*
- *To lower or raise the taxicab tariff, the taxi must be a member of a taxicab brokerage other than to lower a fare as allowed under 546-19 (B), so as an individual owner/operator/driver they cannot compete with the taxi brokerage or the PTC;*
- *With as few as 10-12 ML&S Inspectors dedicated to enforcement for this industry, which now contains in excess of 60,000 vehicles, how can this relate to consumer protection;*
- *By-law inspectors have no powers to stop a taxi or PTC vehicle and can only investigate them on the road when they are stopped;*
- *The vast majority of PTC vehicles are unmarked, which violates a by-law requirement;*
- *The City's actions violate the social contract that has existed for decades between the City and its taxi industry members where they were promised a reasonable opportunity to earn a living to support themselves and their families and plan for their retirement;*
- *How can a taxi driver or a PTC driver make a living with this number of vehicles in service;*
- *Do the approximately 53,447 PTC vehicles who are growing exponentially on a daily basis and work mostly in the downtown core, align with*

Mayor Tory's plans to reduce the downtown core vehicle congestion when added to the already existing 7,000 taxis and liveries; and

- *Should the excessive green gas emissions emitting from those unnecessary 53,447 vehicles be considered an additional health hazard to the general public, which could be prevented?*

“ Excise Tax Act – Definitions – 123 (1) – Taxi Business:

(a) a business carried on in Canada of transporting passengers by taxi or other similar vehicle for fares that are regulated under laws of Canada or a province, or

(b) a business carried on in Canada by a person of transporting passengers for fares by motor vehicle – being a vehicle that would be an automobile, as defined in subsection 248(1) of the Income Tax Act, if that definition were read without reference to “a motor vehicle acquired primarily for use as a taxi,” in its paragraph (c) and without reference to its paragraph –

(e) – within a particular municipality and its environs if the transportation is arranged or coordinated through an electronic platform or system, other than

(i) the part of the business that does not involve the making of taxable supplies by the person,

(ii) the part of the business that is the operation of a sightseeing service or the school transportation of elementary or secondary students, or

(iii) a prescribed business or a prescribed activity of a business; (enterprise de taxis)”

This change to the Act, which now includes PTC's and their drivers brings them into play under section “171.1 - small suppliers who are engaged in a taxi business and section 240(1.1) - a small supplier who carries on a taxi business” is now required to register and pay the GST/HST.

The Excise Tax Act, which is a federal Act, says that PTC's and their drivers are in fact the same as the Taxi Industry and their drivers as they both are defined as operating a “taxi business”, yet the Toronto Municipal Code Chapter 546, Licensing, Vehicles-for-Hire, a municipal by-law legislates them as different entities with different rules and regulations. In Canadian law when there is a conflict between two laws, the senior statute always takes precedence over the junior law or statute.

I believe this makes the City's Chapter 546 in conflict with the Excise Tax Act's definition of a taxi business making it ultra vires, redundant a moot point and therefore without effect, as PTC drivers are receiving special licensing fee rates and other privileges not afforded to taxi drivers. There now can be no doubt that the City does not legislate parity between PTC drivers and taxi drivers.

This serious breach of statute law is just another in the ever-ending and ongoing list of violations of senior statute, irresponsible governance, lack of industry fairness and public safety or consideration for the decades of public service given by the long-established taxi industries being committed by the City and other municipalities involved in PTC licensing.

Since the involved municipalities refuse to correct the injustices and unfairness contained in their by-laws surrounding PTC issues and complaints, the responsibility to correct this travesty lays at the doorstep of the Province of Ontario, who gives licensing powers to the involved municipalities through either the Municipal Act (2001) or the City of Toronto Act (2006) and who could and should be held culpable as a co-respondent with the involved PTC municipalities in the courts, if the Province fails or refuses to correct these discriminations.

The answers to the PTC issues and many other outstanding taxi industry problems could be solved if the Province would legislate a regional taxi service rather than a municipal one especially in the GTHA and many of the GTHA taxi members feel there is already a crown corporation in place where this can be easily achieved and that is Metrolinx.

Metrolinx was created by the Province of Ontario as the Greater Toronto Transportation Authority (GTTA) on April 24, 2006 and adopted the present Metrolinx name in 2007. With this corporation already having statutes in place that deal with creating seamless transportation in the region, our members believe it would be beneficial to add the taxi industry to this ever-evolving corporation rather than starting from scratch.

If approached in this manner, all of the PTC issues could be easily dealt with at the same time. Since Metrolinx already manages and integrates road and public transport throughout the GTHA, would it not be advantageous for the consumer to add municipally licensed taxis as well?

If multiple areas of seamless transportation such as the taxi industry are offered, it eliminates hundreds of different provincial and municipal by-laws and puts the governance under one provincial statute and regulator, while addressing GTHA consumer service and safety.

There is no denying that public transportation and private transportation are linked at the hip and need to be addressed in unison, so the citizens of Ontario receive the best possible and least restrictive servicing in all areas of transportation.

With this in mind, our membership is requesting a meeting with the Premier, Ministry of Municipal Affairs, Ministry of Transportation and the CEO of Metrolinx so we can bring forward other reasons that show this is a good idea and lay out in greater detail, a plan for implementation that falls in line with the existing direction and plans of Metrolinx.

By adding the taxi industry to the transportation systems already contained in those plans, it would make Metrolinx even more effective by offering an additional seamless transportation system throughout the GTHA in an effort to better serve the consumer and regulate transportation in the area in a broader sense.

Premier Ford, with your previous experience as a Toronto City Councillor and working with your brother, the late Rob Ford, who sat on the LSC that deals with the City's taxi industry prior to him becoming Mayor of the City, I am sure that you are very aware of the ever-present municipal negativity towards the taxi industry membership which, the industry has faced for decades and the need for that to be addressed through enacting fair legislation, is of paramount importance.

The thousands of taxi industry members and their families throughout Ontario need the support and assistance of their elected representatives at Queen's Park to put a plan in place that does create a fair and level playing field for all. Ontario's taxi industry is facing financial ruin and is not only being deregulated by some municipalities throughout the Province, but eradicated, which will lead most of its members to have to seek some sort of government financial assistance and/or retraining to have the ability to support themselves and their families.

I and all of Ontario's taxicab industry members look forward to a response at your earliest convenience.

I remain,



Gerald H. Manley