

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE CITY COUNCIL  
CITY OF ST. PAUL

In Re the Taxicab's License  
Held By James Coners

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

Administrative Law Judge George A. Beck, serving as a hearing examiner for the City of St. Paul, conducted a hearing in this matter beginning at 9:30 a.m. on Wednesday, November 25, 1998, at the St. Paul City Hall.

Virginia D. Palmer, Assistant City Attorney, 400 City Hall, 15 West Kellogg Boulevard, St. Paul, Minnesota 55102, represented the St. Paul Office of License, Inspections and Environmental Protection (LIEP). The Licensee, James E. Coners, 1054 Virginia, St. Paul, Minnesota 55117, appeared representing himself. The record closed at the conclusion of the hearing on November 25, 1998.

**NOTICE**

This Report is a recommendation, not a final decision. The City Council of the City of St. Paul will make the final decision after reviewing the record and may adopt, reject or modify these Findings of Fact, Conclusions and Recommendation. Under § 310.05(e)(1) of the City's Legislative Code, the City Council will provide the Licensee the opportunity to present oral or written arguments to the City Council before it takes final action. Licensee should contact Ms. Palmer to determine the procedure for filing argument or appearing before the City Council.

**STATEMENT OF ISSUE**

The issue in this case is whether or not the City of St. Paul should renew the Licensee's taxi driver's license.

Based upon the evidence and argument in the record, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. James E. Coners was first licensed as a taxi driver by the City of St. Paul on March 27, 1997. He was issued License I.D. No. 27615.<sup>[1]</sup> Early in 1998, Mr. Coners applied for a renewal of his taxi driver's license, which was scheduled to expire on March 27, 1998.<sup>[2]</sup>

2. An inspector with LIEP ran a criminal background check on Mr. Coners when the application for renewal was received. This was not done at the time Mr.

Coners originally applied for his license in 1997. The criminal background check disclosed that Mr. Coners has five felony convictions. The felony violations are as follows:

- (a) On August 12, 1994, he was sentenced for two felony violations of fifth degree possession of a controlled substance for violations occurring in 1993.
- (b) On September 23, 1994, he was convicted of a felony violation of aggravated robbery.
- (c) On March 30, 1995, he was convicted of the felony violation of offering a forged check.
- (d) On October 2, 1997, he was again convicted of the felony violation of offering a forged check.<sup>[3]</sup>

3. All of Mr. Coners' convictions were related to his abuse of controlled substances, primarily in 1993. The first forged check incident, the aggravated robbery and the two convictions for use of a controlled substance, all occurred in 1993 while Mr. Coners was abusing methamphetamine. Mr. Coners was incarcerated at Stillwater Prison on September 23, 1994, after the aggravated robbery conviction was resolved and served 30 months there until December 29, 1996. He attended Alcoholics Anonymous and Narcotics Anonymous meetings while in prison, but was not in a treatment program.

4. Upon his release from Stillwater, he was again involved in substance abuse and again forged a check in July of 1997 for which he was convicted later in 1997.<sup>[4]</sup> He was sentenced to five years probation for this forged check charge, but served 90 days in Lino Lakes from October of 1997 to January of 1998 for violating his probation. He received chemical dependency treatment at Lino Lakes. At the present time, he is on probation for the forged check conviction until October 1, 2002. He is now 45 years old.

5. In January of 1998, upon leaving Lino Lakes, he resided at a three-quarters house for men where he was employed as a cook. He remained chemically free during this time and attended AA meetings. Upon leaving the three-quarters house, he took a job with Hospital Linen, where he is presently employed and is a union steward for his shift. He still attends AA meetings at the three-quarters house regularly.

6. Mr. Coners has been separated from his wife and children, but is presently living in the upper half of a duplex owned by his mother-in-law. His wife and children live in the lower half of the duplex.

7. On September 8, 1998, the St. Paul City Attorney wrote to Mr. Coners and advised him that LIEP was recommending denial of the renewal application for his taxicab driver's license. The reason cited was felony convictions within the past five years.<sup>[5]</sup> The recommendation was heard by the City Council on October 14, 1998.<sup>[6]</sup> The City Council decided to refer the matter for hearing in order to determine whether or not Mr. Coners had been rehabilitated within the meaning of Minnesota Statutes Ch. 364.

8. On November 12, 1998, Mr. Coners was issued a Notice of Hearing in this matter, which set the hearing for November 25, 1998, at 9:30 a.m.<sup>[7]</sup>

9. LIEP recommended denial of the renewal of Mr. Coner's license because the inspector believed he had to do so under the City Ordinance. LIEP has received no complaints about Mr. Coners' taxi driving. At the hearing in this matter, LIEP did not oppose conditional licensure for Mr. Coners.

10. Terrence Wagner has been Mr. Coners' probation officer since February 19, 1998. He reports that Mr. Coners' living situation is stabilized, that he is increasingly accepting responsibility in his life, and that he is sincere in his desire to avoid drugs. Mr. Coners has a regular urine analysis (UA) through the probation department and has not had a positive test result. If this good behavior continues, Mr. Wagner will likely recommend an early discharge for Mr. Coners from probation, perhaps in the year 2000.

11. Mr. Coners' mother-in-law believes that he has made a remarkable turnaround in his life, that he is now dedicated to his kids, and is working hard. She believes that he is sincere in avoiding drugs and avoiding people who use drugs.<sup>[8]</sup>

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The St. Paul City Council and the Administrative Law Judge have authority to conduct this proceeding and to make Findings of Fact under Minnesota law and St. Paul City Ordinance.<sup>[9]</sup>

2. The City gave Mr. Coners proper and timely notice of the hearing in this matter.

3. Section 310.06 of the St. Paul Legislative Code permits the City Council to take adverse action against any license if the licensee is in violation of the code or has been convicted of a crime that may disqualify him from holding the license in question under the standards and procedures in Minnesota Statute Ch. 364.

4. Section 310.06(c) allows the City Council to impose reasonable conditions and/or restrictions upon a license.

5. Section 376.16(e)(4) of the St. Paul Legislative Code provides that in order to be eligible to operate a taxicab, a licensee shall have no felony convictions in the last five years. The ordinance also provides that "the license inspector may grant, pursuant to state statute, an exception to the above provisions upon evidence that the offense is not related to the occupation of taxicab driver;"

6. Minn. Stat. § 364.03 provides that a person shall not be disqualified from engaging in an occupation for which a license is required because of a prior conviction of a crime unless the crime directly relates to the occupation for which the license is sought.

7. In determining if a conviction directly relates to the occupation for which the license is sought, the licensing authority must consider:

- (a) The nature and seriousness of the crime or crimes for which the individual is convicted;
- (b) The relationship of the crime or crimes to the purposes of regulating the occupation for which the license is sought;
- (c) The relationship of the crimes to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation.<sup>[10]</sup>

8. The Licensee's substance abuse and aggravated robbery convictions relate directly to the occupation of taxi driving.

9. A person who has been convicted of crimes that directly relate to the occupation for which a license is sought shall not be disqualified if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation for which the license is sought. Sufficient evidence of rehabilitation may include evidence showing that at least one year has elapsed since release from a correctional institution without subsequent conviction of a crime and evidence showing compliance with all terms and conditions of probation or parole.<sup>[11]</sup>

10. The licensing authority must consider any evidence presented by the licensee regarding:

- (1) The nature and seriousness of the crimes for which convicted;
- (2) All circumstances relative to the crimes, including mitigating circumstances or social conditions surrounding the commission of the crimes;
- (3) The age of the person at the time the crimes were committed;
- (4) The length of time elapsed since the crimes were committed; and
- (5) All other evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who had been in contact with the applicant since the applicant's release from a correctional institution.<sup>[12]</sup>

11. The Licensee has produced competent evidence of sufficient rehabilitation and present fitness to perform the duties of taxi driver.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED: that the St. Paul City Council APPROVE the renewal application of James E. Coners for a taxicab driver's license with the condition

that Mr. Coners submit to a regular urine analysis while he remains on probation and that he obtain negative test results.

Dated this 7<sup>th</sup> day of December 1998.

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GEORGE A. BECK  
Administrative Law Judge

Reported: Tape recorded. No transcript prepared.

### **NOTICE**

The City is respectfully requested to serve its final decision upon the Administrative Law Judge by first class mail.

### **MEMORANDUM**

The St. Paul City Council referred this matter for hearing in order to permit a record to be made on the issue of whether or not the Licensee is sufficiently rehabilitated to permit his continued licensure as a taxi driver. The record reflects that Mr. Coners has five felony convictions related to substance abuse, from 1993 to 1997. As LIEP points out, substance abuse can certainly affect cab driving and Mr. Coners' record indicates an unfortunate pattern of behavior with regard to chemical dependency.

Nonetheless, Mr. Coners has presented significant evidence of rehabilitation. He has been drug free for over a year. He has been gainfully employed since July of 1998 at Hospital Linen where he serves as a union steward. Because this job does not pay enough to support his family, he hopes to drive cab on his days off. He continues to attend regular chemical dependency meetings. Although he is presently separated from his wife and children, he is in the process of repairing that relationship. He no longer associates with drug users with whom he associated with in the past. Mr. Coners' testimony at the hearing strongly suggests that he does not want to return to drugs or prison and that he is now motivated, at age 45, to avoid those problems.

The Licensee has also convinced an experienced probation officer that he is sincere in his desire to avoid drugs and to create a new life for himself. He has complied with the terms of his probation and has had negative results on his regular urine analysis. The probation officer is considering an early discharge for Mr. Coners and he supports licensure conditioned about urine analysis.

Mr. Coners also has the support of his mother-in-law in seeking licensure. He has not always had her support in the past. However, she believes that he has made a remarkable turnaround, that he is avoiding drugs, and is working hard. She believes that he is avoiding people with drug habits and is dedicated to his children.

Substance abuse relates to the occupation of driving a taxi. Nonetheless, the Licensee still cannot be disqualified from licensure if he can show competent evidence of sufficient rehabilitation and present fitness. The City Council may wish to consider that Mr. Coners will not have been released from a correctional institution for a period of one year until January 2, 1999.<sup>[13]</sup> Since Ch. 364 presumes that this is one element of showing rehabilitation, the City Council may wish to license Mr. Coners beginning next year. Additionally, the statute cites documents showing completion of probation as evidence of rehabilitation.<sup>[14]</sup> In this case, Mr. Coners remains on probation for the forged check conviction in 1997. The positive side of this situation is that Mr. Coners is closely monitored by his probation officer and is subject to regular urine analysis. This means that LIEP can find out easily whether Mr. Coners has resumed drug use or has otherwise violated his probation. Chapter 364 does not mandate completion of probation to show rehabilitation, however.

Chapter 364 also directs the licensing authority to consider mitigating circumstances or social conditions surrounding the commission of the crimes. In this case, Mr. Coners, the probation officer, and his mother-in-law all have testified that each of the convictions in question was related to his substance abuse. This suggests that if Mr. Coners is able to continue to avoid drugs, he will be able to avoid criminal activities also. Additionally, he has produced evidence of his compliance with the terms of his probation during 1998 within the meaning of Chapter 364.

At the hearing, the license inspector indicated that he thought it was unlikely that Mr. Coners would have problems in the future as a licensed taxi driver. LIEP found the supportive testimony of the probation officer to be persuasive and does not object to licensure with the condition of urine analysis. Mr. Coners does not object to urine analysis. The record contains sufficient evidence of rehabilitation and present fitness to support the licensure of Mr. Coners by the City of St. Paul as a taxi driver effective after January 2, 1999.

G.A.B.

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<sup>[1]</sup> Ex. 1.

<sup>[2]</sup> Ex. 1.

<sup>[3]</sup> Ex. 3-7.

<sup>[4]</sup> Ex. 7.

<sup>[5]</sup> Ex. 8.

<sup>[6]</sup> Ex. 10.

<sup>[7]</sup> Ex. 11.

<sup>[8]</sup> Ex. 9.

<sup>[9]</sup> Minn. Stat. § 14.55; St. Paul City Legislative Code §§ 310.05-.06.

<sup>[10]</sup> Minn. Stat. § 364.03, subd. 2.

[\[11\]](#) Minn. Stat. § 364.03, subd. 3(b).

[\[12\]](#) Minn. Stat. § 364.03, subd. 3(c).

[\[13\]](#) Minn. Stat. § 364.03, subd. 3(b).

[\[14\]](#) Minn. Stat. § 364.03, subd. 3(c).