

UNICITY TAXI LTD.
SUBMISSION TO CITY OF WINNIPEG COUNCIL – DECEMBER 14, 2023

This submission is provided by Pitblado Law (Andrew Buck and Benjamin Hecht), on behalf of our client, Unicity Taxi Ltd. ("**Unicity**"). Thank you for the opportunity to provide comments on behalf of Unicity regarding proposed amendments to the *Vehicles for Hire By-law* (the "**VFH By-law**").

With over 290 licensed taxicabs, Unicity is the largest taxicab dispatcher in Winnipeg. It has served the citizens of our city for decades and looks forward to continuing to provide safe, reliable and affordable transportation to all members of the community.

This submission concerns Item No. 3 from the November 21, 2023 report of the Standing Policy Committee on Infrastructure Renewal and Public Works, being the Vehicles for Hire Annual Report. We understand representatives of Unicity have previously discussed issues related to this report with the Vehicles for Hire Office ("**VFH**"), the Public Works Committee, and various Council members.

At this time, Unicity wishes to share comments with Mayor and Council on four matters related to the proposed amendments to the VFH By-law:

1. Responsibility for preserving camera recordings;
2. Requesting pre-paid fares;
3. Proposed amendments to fines for contraventions of the VFH By-law; and
4. Limits on the number of issued personal transportation provider ("**PTP**") licences.

Unicity's comments on each item are as follows.

1. *Responsibility for preserving camera recordings*

Section 11 of the proposed amendment to the VFH By-law states as follows:

Subsection 45(5) added

11 Subsection 45(5) is added after subsection 45(4) as follows:

45(5) A taxi owner is responsible for ensuring that any and all recordings made by the in-vehicle camera required by subclause 38(1)(g)(ii) (Qualifications for taxi licence) are preserved for a period of time determined by the designated employee after the date of recording, and are turned over to an enforcement officer or a police officer immediately upon request.

This proposed amendment would place responsibility for the proper functioning of in-vehicle cameras on individual taxi owners.

It would supplement Section 23 of the current VFH By-law, which provides:

Camera records in taxis

23 A taxi dispatcher is responsible for ensuring that any and all recordings made by the in-vehicle camera required by subclause 38(1)(g)(ii) (Qualifications for taxi licence) are preserved for a period of time determined by the designated employee after the date of recording, and are turned over to an enforcement officer or a police officer immediately upon request.

Page 6 of the VFH annual report states:

“Presently, the by-law requires a taxi dispatcher be responsible for ensuring that in-vehicle camera recordings are retained for the required time. In general, dispatchers are not always aware when a taxi owner replaces their camera. This amendment will put the responsibility on the taxi owners to ensure they retain this camera footage for the minimum required time. It is important to have this footage retained so as to ensure that it is available for either a VFH or Winnipeg Police investigation.”

Unicity agrees with this statement.

In view of the proposed addition to the VFH By-law, Unicity submits that:

- Section 23 of the VFH By-law ought to be deleted, since there is no reason to hold both dispatch companies (who have no direct contact with each taxicab) and taxi owners responsible for the proper functioning of the camera. As proposed, the amendments could allow both the dispatcher and the taxicab owner to be fined, for the same contravention. We expect that VFH would not ever do that, and also that it would agree that this proposed deletion is logical and just.
- There are a variety of circumstances under which a failure of an in-vehicle camera to properly function are not the “fault” of a taxicab owner or the dispatcher. The VFH By-law should recognize a knowledge and control element, for any contraventions in this regard.

2. *Requesting pre-paid fares*

Section 11 of the proposed amendment to the VFH By-law states as follows:

Subsection 59(1) replaced

17 Subsection 59(1) is replaced with the following:

59(1) Despite section 58 (Obligation to accept passengers and drop off at preferred destination), a taxi driver may refuse to provide a transportation service unless a passenger pre-pays the fare or a reasonable deposit prior to the commencement of the trip if

- (a) the transportation service is being provided during hours of the day and days of the week designated by the designated employee as being those during which pre-payment may be required by taxi drivers;

- (b) the driver believes on reasonable grounds on the basis of past behavior that the passenger is unable or unwilling to pay the fare;
or
- (c) the request for transportation service is a street hail or the passenger identifies that there may be multiple stops involved in the trip;

and the pre-payment required by the driver is no more than that authorized in a zone structure established by the designated employee or the amount that is showing on the taxi meter at the conclusion of the trip.

Clause (c) is a new substantive ground which has been added to this subsection.

Unicity appreciates the interest that VFH has shown in addressing “fare jumping”, which is an issue that creates financial hardship for taxicab owners and has led to significant safety concerns, in the past.

The anecdotal experience of Unicity taxicab drivers is that requests for pre-paid fares help to reduce fare jumping and defuse conflict.

Unicity submits that drivers are best placed to understand, in the particular circumstances of a given situation, when a request for a pre-paid fare can help avoid a potential disagreement and avoid further conflict, during or at the conclusion of a ride.

For that reason, Unicity suggests that front line drivers should be empowered to determine, ***in their reasonable judgment***, when a request for a pre-paid fare is appropriate. The imposition of specific circumstances (i.e., “on the basis of past behaviour”) in which a request may be made serves to remove for drivers the discretion to make a request in circumstances where it is merited by driver safety concerns.

For example, safety concerns may arise at any time, rather than the overnight hours which were used for a previous trial pursuant to clause (a). Further, the VFH By-law does not make clear that immediate past behaviour (i.e., how a passenger may be acting in the moment), rather than behaviour which may have occurred in a separate past incident, may be considered by a taxicab driver.

Finally, Unicity proposes that if new sub-section “c” is to be added”, then it should be split into two new subsections, with “d” beginning after “street hail”.

3. *Proposed amendments to fines for contraventions of the VFH By-law*

Page 10 of the proposed amendments to the VFH By-law sets out a table which would amend Schedule A to the *Municipal By-law Enforcement Act (MBEA) Enabling By-law*, to add new fines or to vary the amounts of existing fines for contraventions of the VFH By-law.

Like many small owner-operated businesses, the margins of the taxicab industry continue to grow smaller.

While Unicity appreciates that fines for contraventions of the VFH By-law serve an important role in promoting compliance, it is also important to ensure that the fines are proportionate to the gravity of the contravention, and not an undue penalty or exercise in revenue generation.

Unicity also appreciates the recognition, from VFH, that it is appropriate to reduce some existing fines, so as to better align with the effect of the relevant contravention.

For these reasons, Unicity accepts any proposed reductions in fines, and opposes any proposed increases.

4. *Limits on the number of issued PTP licences*

Unicity appreciates past initiatives of VFH which have recognized the industry's view that it is important to ensure a level playing field, between taxicabs and PTP vehicles.

In fact, this year's annual report from VFH includes, "Recommended amendments to the VFH By-law that will improve parity in the licensing and operating requirements for traditional taxi and personal transportation (PTP) service providers", and that, too, is appreciated.

Along those lines, Unicity submits that another area that merits consideration by Council is the introduction on limits of issued PTP licenses. That may take the form of a lottery system, as is used for the taxicab industry, or some other methodology. The point, from Unicity's perspective, is that it is unfair for taxicab owners to compete against an exponential increase to the number of PTP vehicles on the road, while the number of taxicab licences continues to be strictly regulated. This can be seen in the graph which is Figure 1 on page 9 of the VFH annual report. While we appreciate that the PTP industry has expanded the use of vehicles for hire in the City, it is also clear that Unicity (and the taxicab industry) have experienced a decline in usage.

We thank you for your consideration in this matter and look forward to continuing to explore and discuss collaborative solutions in future.