

## **Roadside and Administrative Licence Suspension Appeal Additional Information**

You have been issued an immediate roadside or administrative licence suspension by law enforcement and you want to appeal this decision. The following information is provided for your consideration and to help you prepare for your hearing:

### **1. Who can make an administrative suspension appeal?**

- Any driver issued an immediate roadside or administrative licence suspension by law enforcement may appeal SGI's decision to the Highway Traffic Board (HTB).
- Your appeal must be made within **90 days** of the issue date of the immediate suspension.

### **2. Choosing a written or oral hearing:**

You have the right to choose between either an oral or a written hearing. If you wish to have an oral hearing, you must request a date and time for an oral hearing and pay the prescribed oral hearing fee. Below is some information about each hearing type:

- **Oral** – prepare and file your submission ahead of time, including any documents or other evidence you want the HTB Panel to consider. At your hearing, the HTB Panel will go through your submissions, SGI information, and the summarized police report with you. They may ask questions for clarification and understanding of all the circumstances, any discrepancies, your reasons for appealing, and anything else relevant to your appeal. You will be given further opportunity to present your evidence and to tell your story of what happened prior to being charged, the process once you were pulled over, and why you are appealing.
- **Written** – in your written submission to the HTB, you should address the circumstances of the appeal and why you are appealing. You should include affidavit evidence and/or any other information and evidence you wish the HTB Panel to consider and explain why the evidence supports your appeal. You must be thorough in your written submissions, as you may not get the opportunity to make further submissions to the HTB.

### **3. What will be taken into consideration at the appeal?**

The HTB Panel in conducting the hearing, must adhere to the relevant legislation, namely the *Traffic Safety Act (TSA)* (refer to sections 141-155 for roadside or administrative licence suspension).

Generally, in roadside or administrative licence suspension appeals, the sole issue before the board on appeal respecting the suspension of the driver's licence of a new driver or an experienced driver is whether:

- The driver drove a motor vehicle having consumed an illegal amount of alcohol (plus .04%, plus .08%, or any amount of alcohol if zero tolerance); **OR**
- The driver drove a motor vehicle having consumed and being found impaired by drugs; **OR**
- The driver refused, without reasonable excuse, to comply with a demand made for testing for presence of alcohol or drug or samples of breath or blood.

**NOTE:** The definition of “driving”, according to TSA 137(b) includes operating or having the care or control of a motor vehicle, whether it is in motion or not.

**For a complete review of the law regarding roadside or administrative licence suspension review the relevant sections of the TSA.**

**Take some time to consider the above. Next address your personal circumstances either by preparing for your oral hearing or for your written submission. The following questions may help you in your preparations.**

#### **4. In preparation for your hearing**

Whether you’re preparing for an oral hearing, or preparing a written statement, answering the following questions may be helpful for the HTB Panel:

- a. Were you driving and pulled over by the police? Where? When? Why? Explain.
- b. Were you parked, in the ditch, or not moving when the police arrived? Where? When? Why? Explain.
- c. Did the police use a roadside device to determine a warning or failure? Was this a roadside device to determine alcohol levels or for drugs? What is your understanding of the results? Are there any specifics surrounding this procedure you would like to address?
- d. Did the police perform a standard sobriety test? What is your understanding of the results? Explain.
- e. Did you attend with the police to a location where a breathalyzer or intoxilizer was used to get a reading such as .08, .10, .16, etc.? What is your understanding of the results? Are there any specifics surrounding this procedure you would like to address?
- f. If you were charged with a refusal, explain the circumstances around the refusal. Answer the question, why was this a refusal? Are there any specifics surrounding this procedure you would like to address?
- g. If this suspension was due to a low blood alcohol (.04-.08), explain the circumstances surrounding your drinking, include times, where you were drinking, amount, and any other details you think the HTB Panel should be aware of.
- h. If this was due to a high blood alcohol (.08 plus), explain the circumstances surrounding your drinking, include times, where you were drinking, amount, and any other details you think the HTB Panel should be aware of.
- i. If this was due to drugs, explain the circumstances surrounding the stop (Why? When? Where?), any tests administered, and any circumstances surrounding the stop by the police.
- j. Explain why you are appealing and the specific details that support the reason you are appealing.

Whether your appeal is written or oral, it is to your advantage to be well prepared. It is also to your advantage to provide the HTB with your information ahead of the hearing, so they are properly prepared.

**Remember** “the sole issue before the board” as stated in #3 above, needs to be addressed clearly for the HTB Panel. Their final decision will address:

- Were you driving (as defined in the TSA) and did you have an amount of alcohol or drugs in your body as charged (includes impaired), or did you refuse without reasonable excuse to comply with a demand made for testing for presence of alcohol or drug or samples of breath or blood.

**NOTE:** The HTB cannot consider an exceptional hardship to you or anyone else in these instances. They are bound by the provisions of the TSA and have no authority to consider any other issues before them in this matter.