

**OFFICE OF THE DIRECTOR OF EXCISE AND LICENSES  
CITY AND COUNTY OF DENVER, DENVER, COLORADO**

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**IN THE MATTER OF THE HERDIC LICENSE APPLICATION OF MR. LEROY  
HARRIS, 3280 DOWNING STREET, #412, DENVER, COLORADO**

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**RECOMMENDED DECISION**

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This appeal was presented for hearing on January 20, 2010. The Department was represented by Assistant City Attorney John Poley. The applicant, Leroy Harris ("Harris"), appeared *pro se*.

**FINDINGS OF FACT**

1. The Director denied Harris's application for a herdic driver license on December 31, 2009, pursuant to Denver Ordinance Section 55-47. Harris requested an appeal hearing, which was set for January 20, 2010.

2. I take administrative notice of the Department's file.

3. The Department introduced four exhibits:

C-1: Harris's Motor Vehicle History dated January 4, 2010

C-2: Court record from *People v. Leroy Harris*, 1007 CR 1544

C-3: Court record from 2009 GS 66923

C-4: Court record from B991050

Harris admitted that each of the exhibits accurately reflected his criminal and driving records. The exhibits were admitted without objection.

4. Exhibit C-3 shows that Harris was convicted for shoplifting on or about January 24, 2009. Exhibit C-4 shows that Harris was convicted for forgery on or about July 9, 2007 and is currently on probation for that crime. He will remain on probation until August 2011. Harris did not disclose the forgery misdemeanor on his application for the herdic license. It was disclosed on his criminal history form.

5. Exhibit C-1 shows that Harris was cited with three traffic infractions within a three month period in 2009. (Document Nos. 15, 18, and 20.) He was cited for other traffic infractions, including careless driving, in August 2008 and November 2006 (Document Nos. 21 and 24). It appears that Harris's driver's license was revoked or

suspended in 2005 and 2006. Harris's driving record shows a 2001 conviction for driving while impaired by alcohol and other infractions. (Document No. 36)

6. Harris tried to explain away some of his recent driving violations by stating that he was stopped for having defective brake lights. He explained that he did not know that a brake light was out until he was stopped. In response to this testimony, the Department introduced Exhibit C-4, showing that Harris was charged with speeding in a school zone and that he plea bargained the charge down to "defective vehicle." After the Department introduced this evidence, Harris stated that he did not recall why he was charged with the other defective vehicle violation in 2009.

7. Exhibit C-1 shows that Harris's driver's license has been suspended several times. He stated that his license was suspended because he could not pay for insurance, and not because of points. He also claims that he did not drive during the times that his license was suspended. However, Exhibit C-1 shows that his license was revoked in 2002 because he drove under an insurance suspension. (Document No. 34) In June 2002, he was convicted for driving when his driving privileges were suspended. (Document No. 30) Indeed, he was a repeat offender of this type of charge. (*See, e.g.*, Document Nos. 42, 43, 54)

8. Harris did not disclose the suspensions of his driver's license on his application. He states that he read the application as only asking about suspensions of a chauffeur's license.

9. Testifying on his own behalf, Harris stated that he has not been charged with motor vehicle or criminal violations since obtaining his present employment with Denver Lincoln Limousine. He also points out that he has been licensed by DIA and has successfully passed TSA's threat assessment.

10. Harris introduced testimony from Arnold Conway Poppenberg, the president of Denver Lincoln Limousine. Poppenberg testified that all of his company's cars are outfitted with drivecam, a video that shows erratic driving and speeds over 65 and 75 miles per hour, as well as activities within the car itself. The cars are also equipped with GPS tracking. Drivecam will not show or alert the office if a car is speeding within a school zone.

11. Poppenberg also stated that Denver Lincoln Limousine does not accept cash payments through their drivers. Ninety to ninety-five percent of their customers are billed through the office. When the company's drivers accept payment, it is through wireless machines; no imprints of credit cards are taken.

12. Poppenberg receives and reviews a monthly report of the driving records of all Denver Lincoln Limousine drivers.

13. In argument, Harris queried why he was denied a herdic license by the Department when he was approved by DIA and TSA. His application for approval by the Public Utilities Commission is under review.

### CONCLUSIONS


14. To qualify for a Denver herdic license, the applicant must demonstrate good character, among other things. Denver Revised Municipal Code ("DRMC"), Section 55-43. Further, the applicant may be investigated, not just for his driving record, but for "law abiding behavior, attendance to duties, competence as a driver and trustworthiness." DRMC, Section 55-46. The Director may refuse to issue a license to any applicant when the applicant's police record shows "convictions for drunkenness, repeated moving traffic violations, or for any other good and just cause, which, in the opinion of the director, would be inimical to the public health, safety or morals." DRMC, Section 55-47(c). These provisions make it clear that the director has the authority to deny a license to an applicant when the applicant's record suggests that he is not a safe driver, that he has a history of failing to abide by the law, or that he has a history of failing to act in a trustworthy manner.

15. I find that the Department has provided ample evidence of moving violations as well as other infractions and crimes warranting denial of Harris's application. Harris's driving record alone, showing three infractions in less than three months and six additional infractions, including driving under the influence of alcohol, since 2001, puts in doubt Harris's ability to be a safe driver. Further, crimes such as forgery go to trustworthiness, as does the failure to disclose fully his criminal background where asked on his application. Harris's attempt pass off a speeding ticket as a faulty brake light renders his trustworthiness suspect as well. Harris's convictions for theft and shoplifting and repeated citations for driving while his license was suspended or revoked do not demonstrate law abiding behavior.

16. Harris has not rebutted the Department's evidence. Two or three months without being charged with traffic or criminal violations does not overcome the recent history of criminal conduct and traffic violations. Further, the fact that DIA and TSA may have approved Harris for passenger pick-up at the airport does not free him from the requirement to obtain an independent determination from the Department that he is qualified for the requested license under the provisions and requirements of the DRMC.


17. Therefore, I recommend that the Director's Denial Order dated December 31, 2009 be affirmed.

**RECOMMENDED** this 21<sup>st</sup> day of January, 2010.

  
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Ann H. Cisneros  
Hearing Officer

After reviewing the evidence as summarized above and after consulting with the hearing officer, the foregoing **RECOMMENDED DECISION affirming the Department's denial of a herdlic license to Leroy Harris** is hereby accepted by the Director, Department of Excise and Licenses.


ISSUED this 22nd day of January, 2010

  
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Penny L. May, Director  
Department of Excise and Licenses

#### CERTIFICATE OF MAILING

The undersigned states and certifies that on this 22nd day of January, 2010, one true copy of the foregoing Recommended Decision was deposited in the mails of the U.S. Postal Service, first-class postage prepaid, addressed to the following:

City and County of Denver  
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Mr. Leroy Harris  
  
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