



CHAUFFEUR'S PERMIT APPEAL HEARING MINUTES

FEBRUARY 2, 2016

A Chauffeur's Permit Appeal Hearing of the Council of the City of Vancouver was held on Tuesday, February 2, 2016, at 6:10 pm, in the Council Chamber, Third Floor, City Hall.

PRESENT: Councillor Tim Stevenson, Chair
Councillor Heather Deal
Councillor Kerry Jang

CITY CLERK'S OFFICE: Laura Kazakoff, Meeting Coordinator
Donald Kinloch, Meeting Coordinator

1. **Kuldip Singh Sandhu**

The Chauffeur's Permit Appeal Panel had before it for consideration an Evidence Brief, prepared by the City of Vancouver's Legal Department, which contained the following material (*on file in the City Clerk's Office*) and the evidence of witnesses:

Tab Description

1. Notice of Hearing
2. Letter from S.R. Chamberlain, counsel for Kuldip Singh Sandhu, dated December 8, 2015;

Letter from City of Vancouver to S.R. Chamberlain, dated December 8, 2015
3. Taxi Unit Interview Check Sheet and Notes completed by Det. Gilbert for interview conducted on November 24, 2015;

Memo from Detective Mike Gilbert of the Vancouver Police to Chief Constable Adam Palmer dated December 3, 2015;

Letter from the Chief Constable to Kuldip Singh Sandhu dated December 3, 2015;

Taxi Unit Interview Check Sheet and Notes dated December 3, 2015
4. Letter from MacLure's Cabs to VPD Taxi Unit regarding Police Records Check;

VPD Request and Consent for Record Check and Disclosure
5. ICBC Driving Record Search for Kuldip Singh Sandhu;

Driver Details regarding Kuldip Singh Sandhu;
Insurance coverage history and claim experience for Kuldip Singh Sandhu

6. Criminal Convictions, conditional and Absolute Discharges and Related Information for Kuldip Singh Sandhu;

Narrative Text Hardcopy GO#2013-213291
7. Chauffeur and Vehicle for Hire Permit Application of Kuldip Singh Sandhu
8. Sections 6 through 9 of the City of Vancouver's Vehicles for Hire By-law No. 6066

Iain Dixon, Assistant Director of Legal Services - Enforcement and Prosecution, was present on behalf of the City of Vancouver.

Michael Bloom, Bloom Law, was present on behalf of Kuldip Singh Sandhu (the Applicant), who was also present.

Mr. Dixon reviewed the legislation relevant to the circumstances of this Hearing and noted the City has the authority to regulate Chauffeurs under 317(1)(l) of the Vancouver Charter.

He further noted that Section 36.5 of the Motor Vehicle Act grants the Chief Constable discretion to suspend or cancel a permit, if, on proof to his satisfaction, the Chief Constable believes that a person is unfit to act as a chauffeur. The refusal by the Chief Constable was therefore made on the basis that the Applicant has, on December 27, 2013, been charged with sexual assault, as documented in the Notice of Hearing dated January 18, 2016, that was sent to the Applicant's lawyer by Registered Mail.

He further explained that this was an appeal by Mr. Sandhu, pursuant to section 36.7 of the Motor Vehicle Act, from the refusal by the Chief Constable to issue a Chauffeur's Permit under section 36.5 of the Motor Vehicle Act.

Mr. Dixon noted that the rules of natural justice apply. The Applicant is to hear the allegations, and will then be given a chance to respond.

After hearing the appeal, the Panel may uphold or overturn the Chief Constable's refusal to issue a Chauffeur's Permit to Kuldip Singh Sandhu, and should include the reasons for its decision.

Mr. Dixon called Detective Mike Gilbert, Vancouver Police Department, as a witness in support of the allegations as set out in the documents which were considered by the Chief Constable in refusing to issue the permit, and contained within the Evidence Brief.

The Panel also asked questions of Detective Gilbert.

Prior to his questioning of Detective Gilbert, Mr. Bloom submitted a copy of handwritten notes taken by PC 2188 during her questioning of the alleged victim of the aforementioned sexual assault. A short recess was taken while copies were made and distributed to the Panel Members and Counsel for the City.

Mr. Bloom then asked questions of Detective Gilbert.

In his opening comments, Mr. Bloom noted the incident in question took place in late December, a festive time of the year during which people are generally more friendly and sociable. He referred to the handwritten statement prepared by PC 2188 on the night in question, which was later made into the Occurrence Report which appears in the City's evidence package. He stated that he would provide evidence that there was a very different set of facts around this incident.

Mr. Bloom called Kuldip Singh Sandhu as a witness. During his testimony, Mr. Sandhu noted he is married with two young children, and has been driving a taxi for more than 4 years. He has had a driving permit with every major taxi company in the city and has not had an incident during that time. His driving record has some minor entries, but he has never been charged with any offense related to alcohol, driving with undue care and attention, or in a manner that could be dangerous to others. He also noted he has no criminal record. Mr. Sandhu noted that the holiday season is a very busy time for taxi drivers. During his testimony about the night in question, Mr. Sandhu noted that the female passenger originally attempted to sit in the back seat, but the van he was driving had a heavy sliding door and she was unable to open it after a few attempts and so she chose to sit in the front seat. During the drive to her home they conversed about friends and family and about being an ESL student, which was something they had in common.

Upon arriving at the destination he stated the passenger reached over to him and they hugged and shook hands. Mr. Sandhu then advised he gave her his business card, which he noted drivers sometimes do to enable customers to call them directly, rather than waiting to get through to dispatch. Mr. Sandhu stated he did not try to kiss the passenger. Sometime later, after driving additional passengers, Mr. Sandhu said he received a call to return to dispatch, where police were waiting for him. He noted that he takes pride in driving a taxi cab and in doing a good job and providing a safe ride for passengers.

Panel members asked questions of the witness. In response to questions, Mr. Sandhu stated he had believed at the time that a video recording was operating in his taxi-cab during the incident.

Mr. Dixon also asked questions of the witness.

In closing, Mr. Dixon submitted that the charge of sexual assault was a serious allegation and was investigated by police at the time. He stated that the Panel must assess what it believes to have occurred based on the evidence before it, including the written statement provided at the Hearing by Counsel for the Applicant, and that if convinced the Applicant did what was alleged, he shouldn't be granted a Chauffeur's Permit.

Mr. Bloom, in his closing statement, noted that the decision to charge someone with a criminal offense lies with the Crown Counsel. In this case the Crown decided to drop the charges and there was no opportunity for a trial. In addition, a year has since passed, and therefore the charge cannot be renewed. Mr. Bloom reiterated that Mr. Sandhu had driven a cab without incident for a significant period of time and he has no criminal record, and no serious driving infractions. He acknowledged that the two accounts of the incident were very different, but submitted that there was no audio recording of the female passenger's statement or of her questioning by police, which is the procedure generally followed. He stated the lack of a recording then lead to the written record in the evidence package which in his submission was amplified. He noted there were aspects of it which are not represented

in the original hand-written notes which he provided. He further noted that scenarios where there are polar opposite versions of a story are very common. Mr. Bloom submitted that the burden of proof lies with the City to show why Mr. Sandhu should not be granted a permit. He stated it was his position that the permit should be granted. Mr. Sandhu has testified and his testimony can be assessed for credibility, whereas the female passenger is not present and cannot have her credibility assessed. He further noted the lack of a video recording in the cab at the time of the incident. He finished by stating that in his submission, there is not enough evidence for Mr. Sandhu's permit to not be reinstated.

PANEL MEMBERS DECISION

In making a decision on this matter, Panel Members noted the necessity for certain boundaries and a level of professionalism to be followed by licenced taxi drivers in respect to their passengers. The fact that the Crown was willing to bring forward a criminal charge on this matter was also noted.

MOVED by Councillor Jang
SECONDED by Councillor Deal

THAT the Chauffeur's Permit Appeal Panel uphold the decision of the Chief Constable to refuse to issue a Chauffeur's Permit to the Applicant, Kuldip Singh Sandhu, based on evidence the Applicant was charged with a sexual assault on December 27, 2013, contrary to the *Criminal Code of Canada*, while operating a vehicle for hire, that indicates he is unfit to act as a Chauffeur.

CARRIED UNANIMOUSLY

ADJOURNMENT

MOVED by Councillor Deal
SECONDED by Councillor Jang

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The Chauffeur's Permit Appeal Hearing Panel adjourned at 8:40 pm.

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