



CHAUFFEUR'S PERMIT APPEAL HEARING MINUTES

JUNE 20, 2012

A Chauffeur's Permit Appeal Hearing of the Council of the City of Vancouver was held on Wednesday, June 20, 2012, at 9:30 am, in the Council Chamber, Third Floor, City Hall, to determine whether or not the cancellation by the Chief Constable of the 2012 Chauffeur's Permit (the "Permit") issued to Bahadur Singh Gosal (the "Permit Holder") should be upheld or overturned.

PRESENT: Councillor Elizabeth Ball, Chair
Councillor George Affleck
Councillor Tim Stevenson

CITY CLERK'S OFFICE: Nicole Ludwig, Meeting Coordinator

1. Bahadur Singh Gosal

The Chauffeur's Permit Appeal Hearing 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 Bahadur Singh Gosal to (Vancouver City) Council dated May 15, 2012;
Letter from City of Vancouver to Bahadur Singh Gosal dated May 15, 2012
3. Memo from Cst. Kevin Barker to Chief Constable Jim Chu dated May 8, 2012;
Letter from Chief Constable to Bahadur Singh Gosal dated May 8, 2012;
Transcript of Constable Barker's Interview with Bahadur Gosal;
Chauffeur's Permit of Bahadur Singh Gosal
4. Letter from Black Top Cabs to Taxi Unit regarding police records check for Bahadur Singh Gosal;
Chauffeur and Vehicle for Hire Permit Application by Bahadur Singh Gosal;
VPD Request and Consent for Record Check and Disclosure;
RCMP Criminal Record of Bahadur Singh Gosal
ICBC Driving Record Search of Bahadur Singh Gosal
5. VPD General Occurrence Hardcopy GO 2012-58284
6. Bail Order
7. Termination of Chauffeur's Employment Notification dated April 24, 2012

The Panel also had before it sections 3 to 7 of the City of Vancouver *Vehicles for Hire By-law (No. 6066)*, which was distributed at the hearing and was also provided to the License Holder and his counsel.

Iain Dixon, Assistant Director of Legal Services - Enforcement and Prosecution, was present on behalf of the City of Vancouver. Bahadur Singh Gosal was represented by Jamie Gopaulsingh, Lindsay, Kenney LLP, and was assisted by an interpreter, Amrit Chandan.

Mr. Dixon reviewed the principles of natural justice and explained that this was an appeal by Mr. Gosal, pursuant to section 36(7) of the *Motor Vehicle Act*, from the cancellation by the Chief Constable of Mr. Gosal's Chauffeur's Permit. The Chief Constable cancelled the Permit pursuant to section 6(6) of the *Vehicles for Hire By-law*, namely that the Permit Holder's employment with Black Top Cabs was terminated. Furthermore, the Permit Holder has been charged with engaging in criminal activity, specifically uttering threats, which may be related to his employment as a chauffeur and may put the public at undue risk. The Chief Constable was of the belief that the nature of the offense relates to the business, trade, profession, or other occupation for which the Permit was issued. Mr. Dixon also noted the criminal matter is currently before the courts and, while the Panel may consider that in its decision, it is not appropriate to go into the details of the criminal matter.

Mr. Dixon advised the City has the power to issue chauffeurs permits pursuant to section 6 of the *Vehicles For Hire By-law* and the Chief Constable's authority to cancel a Chauffeur's Permit derives from section 36 of the *Motor Vehicle Act*.

Mr. Dixon noted that after hearing the appeal, Council may uphold or overturn the Chief Constable's decision to cancel the Chauffeur's Permit issued to Bahadur Singh Gosal, and that Council is the final authority on the matter.

Mr. Dixon referred the Panel to the evidence before it as set out in the documents which were considered by the Chief Constable in refusing to issue the Permit.

Mr. Dixon called Constable Kevin Barker #1118, Taxi Detail, Vancouver Police Department, as witness in support of the allegations.

The Panel and Mr. Gopaulsingh also asked questions of the witness. During the questioning of the City's witness, Mr. Gopaulsingh referred the witness and the Panel to an evidence booklet (*on file*) he had prepared for this hearing. That booklet contained the following evidence:

<u>Tab</u>	<u>Description</u>
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| 1. | Letter Dated May 1, 2012 from J. Gopaulsingh to Vancouver Police Department Taxi detail with fax confirmation |
| 2. | Recognizance of Bail for Bahadur Singh Gosal pronounced June 5, 2012 |
| 3. | Reference Letter from Kewal Singh Toor dated June 19, 2012 |
| 4. | Reference letter from Ashwni Kumar dated June 20, 2012 |

In opening, Mr. Gopaulsingh noted his client is both a driver and shareholder in Black Top Cabs. He noted there was an incident at his client's workplace on April 18, 2012, which resulted in the approval of criminal charges. He further noted that Mr. Gosal is disputing those charges and until the case is heard, has the right to pursue his livelihood as a taxi driver. Finally, he explained the cancellation of the permit due to Mr. Gosal's current state of non-compliance with Section 6(6) of the *Vehicles for Hire By-law (No. 6066)*, may not be valid because the evidence is unclear that he was terminated from his job at Black Top Cabs, and a Black Top Board member will testify that the General Manager of Black Top Cabs does not have the authority to terminate a shareholder.

The Panel asked questions of Mr. Gopaulsingh prior to hearing his witnesses.

In support of the evidence and his client, Mr. Gopaulsingh called Mohinder Sain, Black Top Board Member, as witness. Mr. Sain testified that a shareholder may not be removed by the General Manager; removal of a shareholder must occur at a General Meeting and requires 75 per cent approval of shareholders. Mr. Sain also refuted the allegations of criminal behaviour against Mr. Gosal

The Panel and Mr. Dixon also asked questions of the witness. Mr. Dixon clarified that Mr. Gosal still retains his share in Black Top Cabs, but has had his chauffeur's employment revoked.

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The Panel recessed at 11:15 am and reconvened at 11:25 am

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In closing, Mr. Dixon noted that with regard to the criminal charges against Mr. Gosal, the Panel requires only the balance of probability that the incident took place, not the reasonable doubt requirement of a criminal court, and that there should be a nexus between the alleged criminal behaviour and the cancellation of the Permit. He also noted it is clear Black Top Cabs does not wish Mr. Gosal to drive for them and a letter revoking his driving status was signed by the authority at Black Top Cabs who signs all letters of that nature. Mr. Dixon also questioned the authority of Mr. Gopaulsingh's witness who indicated he was speaking only for himself and not the Board. Finally, Mr. Dixon noted that the appropriate way for the Panel to deal with this issue is to uphold the cancellation of the Permit and that there is nothing to preclude Mr. Gosal's reapplication with the appropriate hiring letter from a taxi company.

In closing, Mr. Gopaulsingh noted his witness refuted the criminal allegations against Mr. Gosal and that the conditions of parole related to the allegations had been changed by Crown Counsel to allow Mr. Gosal access to Black Top Cabs during his working shifts. Mr. Gopaulsingh also noted the legality of Mr. Gosal's termination is questionable, not only because of the lack of clarity and generic nature of the letter and the question as to whether the General Manager has the authority to terminate a shareholder, but also because Mr. Gosal has not received any message from Black Top Cabs that he has been terminated. Mr. Gopaulsingh suggested a way to deal with the issue would be to have the Permit reissued when Mr. Gosal provides a letter from Black Top Cabs indicating his suitability as a driver.

PANEL MEMBERS DISCUSSION

In discussion the Panel noted concerns over the position of Mr. Gopaulsingh's witness, specifically that he is a Black Top Board member but not representing the Board, and discussed the extent to which the criminal allegations should apply to the question of upholding the cancellation of the Permit.

MOVED by Councillor Affleck

SECONDED by Councillor Stevenson

- A. THAT the cancellation of the current Chauffeur's Permit and any future Permits be upheld until the criminal proceedings against Bahadur Singh Gosal are concluded, unless a letter requesting reinstatement of Mr. Gosal's permit is received by the Vancouver Police Department from the Black Top Cabs Board, signed by all of the board indicating whether each member is in favour or opposed to the reinstatement;

FURTHER THAT upon receipt of the aforementioned letter, the Chief Constable conduct an investigation to determine whether or not the permit should be reinstated.

- B. THAT, following the conclusion of the criminal proceedings against Bahadur Singh Gosal, if Mr. Gosal is found guilty then the permit will be cancelled; if he is found not guilty, the Chief Constable will conduct an investigation to determine whether or not the permit should be reinstated.

CARRIED UNANIMOUSLY

The Business Licence Hearing Panel adjourned at 12:10 pm.

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