



CHAUFFEUR'S PERMIT APPEAL HEARING MINUTES

NOVEMBER 12, 2013

A Chauffeur's Permit Appeal Hearing was held on Tuesday, November 12, 2013, at 9:34 am, in the Council Chamber, Third Floor, City Hall.

PRESENT: Councillor Elizabeth Ball, Chair
Councillor Geoff Meggs
Councillor Tim Stevenson

CITY CLERK'S OFFICE: Nicole Ludwig, Meeting Coordinator

1. Balbir Singh Sehra

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:

| <u>Tab</u> | <u>Description</u> |
|------------|--|
| 1. | Notice of Hearing |
| 2. | Letter from Balbir Singh Sehra dated June 13, 2013; Letter from City of Vancouver to Balbir Singh Sehra dated June 13, 2013 |
| 3. | Memo from Constable Kevin Barker of the Vancouver Police to Chief Constable Jim Chu dated June 6, 2013; Letter from Chief Constable to Balbir Singh Sehra dated June 13, 2013 |
| 4. | Transcript of Constable Barker's June 6, 2013 Interview with Balbir Singh Sehra |
| 5. | Letter from Vancouver Taxi Ltd. regarding police records check for Balbir Singh Sehra; VPD Request and Consent for Record Check and Disclosure; ICBC Driving Record Search of Balbir Singh Sehra |
| 6. | Chauffeur and Vehicle for Hire Permit Application of Balbir Singh Sehra |
| 7. | Vancouver Police Department Narrative Text Hardcopy of GO 2012-65863 |
| 8. | Criminal Record of Balbir Singh Sehra Person Query pertaining to Balbir Singh Sehra CPIC information pertaining to Balbir Singh Sehra |

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

Mr. Dixon introduced Balbir Singh Sehra and reviewed the legislation relevant to the circumstances of this Hearing. He noted the City has the authority to regulate chauffeurs

under Section 317(1)(l) of the *Vancouver Charter*. He explained that this was an appeal by Mr. Sehra, 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 advised the Chief Constable refused to issue the Permit pursuant to section 6.1(2A)(a) of the *Vehicles for Hire By-law*, which states:

"the Chief Constable must ascertain whether the applicant has at any time within the preceding five years been convicted of any offence under any statute of Canada or the Province of British Columbia or under any city by-law, and the Chief Constable, if of the belief that the nature of the offence relates to the business, trade, profession, or other occupation for which the application has been made, must refuse the permit".

The refusal by the Chief Constable was therefore made on the basis that on May 24, 2012, Mr. Sehra received a 90 day roadside prohibition due to his refusal to provide a breath sample under the *Motor Vehicle Act*, as documented in the Notice of Hearing dated August 19, 2013, that was sent to Mr. Sehra by Registered Mail.

Mr. Dixon explained that the main complaint against Mr. Sehra is the 2012 refusal to provide a breath sample, but that Mr. Sehra also has various *Motor Vehicle Act* violations over the last five years. Mr. Dixon also described the rules of natural justice, noting it is the right of Mr. Sehra to hear the accusations against him.

Mr. Dixon noted that after hearing the appeal, Council may uphold or overturn the Chief Constable's refusal to issue a Chauffeur's Permit to Balbir Singh Sehra. He noted the Panel should consider whether the Chief Constable accurately and correctly interpreted and applied the legislation to this particular set of circumstances in determining whether or not a refusal of the Chauffeur's Permit was appropriate.

Mr. Dixon called Police Constable Kevin Barker, Taxi Unit, Vancouver Police Department, as a witness in support of the allegations as set out in the documents considered by the Chief Constable in refusing to issue the permit, and contained within the Evidence Brief.

The Panel members and Mr. Sehra also asked questions of the witness. Mr. Dixon clarified some of the evidence in the Evidence Brief.

In opening, Mr. Sehra explained he has been working as a taxi driver for 30 years and it is his family's only current means of financial support. He explained that about the time of the incident which led to the current refusal of his Chauffeur's Permit, financial, health and family problems resulted in a separation from his wife for a time. In turn, this led to the incident on May 24, 2012, which also caused property damage to the house where his wife was staying at the time. With regard to this incident, Mr. Sehra submitted that he was not the driver of the vehicle that had crashed into the gate and garage of the house and that his wife was the one driving when the incident occurred. Mr. Sehra also submitted that he did not refuse a breath sample at this time and that he was not intoxicated.

Mr. Sehra called his wife as witness who submitted that on May 24, 2012, she was driving the vehicle and caused the property damage to the house. Mrs. Sehra explained that the incident occurred because she saw her husband and panicked. She submitted she then ran into the house and the occupants of the house did not know she had entered. Upon seeing Mr. Sehra, the occupants of the house called police.

The Panel and Mr. Dixon also asked questions of Mr. Sehra, the witness, and additional clarifying questions of Constable Barker. Mr. Dixon also noted it was curious that on November 28, 2012, Mr. Sehra pleaded guilty to property damage caused during the May 24, 2012, incident, but is now saying he did not cause the damage.

Mr. Dixon clarified the Panel's powers, noting that it is up to the Panel to decide if the provincial conviction of refusing to provide a breath sample is related to driving a taxi.

In closing, Mr. Dixon noted the discrepancy between the evidence and the testimony by Mr. Sehra and the witnesses, explaining that there was no reason to overturn the Chief Constable's refusal to issue a Chauffeur's Permit.

In closing, Mr. Sehra admitted to having *Motor Vehicle Act* violations in the form of speeding violations, and noted he has never been at fault in an accident. With regard to the guilty plea on November 28, 2012, from the May 24, 2012, incident, Mr. Sehra submitted he was encouraged by his legal counsel at the time to accept the charge of mischief and damage to property over \$5000 and in exchange for removal of the other criminal charges stemming from the incident, or he would have to wait in custody for trial.

PANEL MEMBERS DISCUSSION

In discussion, Panel members noted the discrepancy in testimony and evidence and that the Chief Constable had applied the relevant legislation correctly in making his decision on this Chauffeur's Permit.

MOVED by Councillor Meggs
SECONDED by Councillor Stevenson

THAT the decision of the Chief Constable to refuse to issue a Chauffeur's Permit to Balbir Singh Sehra be upheld because the Chief Constable accurately and correctly interpreted and applied the *Vehicles for Hire By-law* and Provincial legislation in making his decision.

CARRIED UNANIMOUSLY

ADJOURNMENT

MOVED by Councillor Stevenson
SECONDED by Councillor Meggs

THAT this meeting be adjourned.

CARRIED UNANIMOUSLY

The Chauffeur's Permit Appeal Hearing Panel adjourned at 11:00 am.

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