



CHAUFFEUR'S PERMIT APPEAL HEARING MINUTES

JULY 15, 2014

Two Chauffeur's Permit Appeal Hearings were held on Tuesday, July 15, 2014, at 9:35 am, in the Council Chamber, Third Floor, City Hall.

PRESENT: Councillor Tony Tang, Chair
Councillor Elizabeth Ball
Councillor Geoff Meggs

CITY CLERK'S OFFICE: Bonnie Kennett, Meeting Coordinator

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VARY AGENDA

MOVED by Councillor Meggs
SECONDED by Councillor Ball

THAT the Chauffeur's Permit Appeal Panel vary the order of the agenda to deal with item 2 first.

CARRIED UNANIMOUSLY AND
BY THE REQUIRED MAJORITY

Note from Meeting Coordinator: for clarity, the minutes are recorded in chronological order.

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2. Harvinder Singh Battu

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 Harvinder Singh Battu dated May 8, 2014 Letter from City of Vancouver to Harvinder Singh Battu dated May 8, 2014
3.	Memo from Constable Kevin Barker of the Vancouver Police to Chief Constable Jim Chu dated May 7, 2014

Letter from Chief Constable to Harvinder Singh Battu dated May 8, 2014
Transcript of Constable Barker's May 7, 2014 Interview with Harvinder Singh Battu

4. Letter from Blacktop Cabs Ltd. to VPD Taxi Unit regarding police records check for Harvinder Singh Battu
VPD Request and Consent for Record Check and Disclosure
Person Query pertaining to Harvinder Singh Battu
Ticket Offence Hardcopy VA AH34723173VT
5. ICBC Driving Record Search of Harvinder Singh Battu
ICBC Insurance coverage history and claims experience for Harvinder Singh Battu for the past 6 years
6. Chauffeur and Vehicle for Hire Permit Application of Harvinder Singh Battu
Chauffeur's Permit issued to Harvinder Singh Battu on April 23, 2012

Iain Dixon, Assistant Director, Legal Services - Enforcement and Prosecution, was present on behalf of the City of Vancouver. Harvinder Singh Battu was accompanied by Ravinder Battu and Carolyn Bauer, General Manager, Yellow Cab.

Mr. Dixon reviewed the legislation relevant to the circumstances of this Hearing and noted the City has the authority to regulate chauffeurs under Section 317(1)(I) of the *Vancouver Charter*. He further explained that this was an appeal by Mr. Battu, 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 the Applicant has, within the preceding four years, been convicted of the following offences under the *Motor Vehicle Act*, as documented in the Notice of Hearing dated June 1, 2014, that was sent to the Applicant by Registered Mail:

- August 23, 2011: Section 152 driving in a High Occupancy Vehicle lane;
Section 151(b) changing lanes crossing a solid line;
- April 6, 2012: Section 214(2)(1) using an electronic device while driving;
- November 5, 2012: Section 165(2) making an improper left turn at an intersection;
and
- November 20, 2012: Section 187(2) obstructing traffic by parking.

Mr. Dixon noted the Chief Constable was of the belief that the nature of the offences relates to the business, trade, profession, or other occupation for which the application for the Permit has been made.

He advised the City has the power to issue Chauffeur's Permits pursuant to Section 6 of the *Vehicles For Hire By-law* and the Chief Constable's authority to refuse to issue 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 refusal to issue a Chauffeur's Permit to Harvinder Singh Battu. He noted the Panel should have due regard for the statutory context of the Chief Constable's powers, however if the Panel finds the Chief Constable was in error or the refusal was unreasonable, it must overturn the refusal and require the Chief Constable to issue the Permit.

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, Taxi Unit, Vancouver Police Department, in support of the allegations.

The Panel also asked questions of the witness.

Ravinder Battu, representing Harvinder Battu, asked questions of the witness.

On behalf of the appellant, Carolyn Bauer, General Manager, Yellow Cab and, along with Ravinder Battu, provided comments in support of Mr. Battu and urged the Panel to overturn the refusal by the Chief Constable to issue a Permit.

The Panel asked questions of the witness.

In closing, Mr. Dixon noted it was up to the Panel to decide whether or not the offences are considered to be sufficiently related to the occupation of driving a taxi and whether to uphold or overturn the Chief Constable's decision to refuse issuing a Chauffeur's Permit to Harvinder Singh Battu.

PANEL MEMBERS DISCUSSION

In discussion, the Panel members noted that the nature of the offences and circumstances are much less severe than other cases they have dealt with in the past and in this case, the punishment is disproportionate to the offences committed. The Panel, after hearing all the evidence, concluded that the appeal be allowed.

MOVED by Councillor Meggs
SECONDED by Councillor Ball

THAT the Chauffeur's Permit Appeal Panel overturn the Chief Constable's decision to refuse to issue a Chauffeur's Permit to Harvinder Singh Battu.

CARRIED UNANIMOUSLY

1. Adarshpal Hundal

Iain Dixon, Assistant Director, Legal Services - Enforcement and Prosecution, advised that he had received a phone call from Counsel for Mr. Hundal indicating he would not be attending the Hearing today, and that it was his opinion Mr. Hundal was not likely to attend. At 10:30 am, one hour after the start of the hearing, Mr. Hundal was still not present and Counsel for the City of Vancouver considered the appeal to be abandoned as per Section 17.10 of the *Procedure By-law*.

ADJOURNMENT

MOVED by Councillor Ball
SECONDED by Councillor Meggs

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The Chauffeur's Permit Appeal Hearing Panel adjourned at 10:37 am.

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