



CHAUFFEUR'S PERMIT APPEAL HEARING MINUTES

MAY 19, 2015

A Chauffeur's Permit Appeal Hearing was held on Tuesday, May 19, 2015, at 9:31 am, in the Council Chamber, Third Floor, City Hall.

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

CITY CLERK'S OFFICE: Bonnie Kennett, Meeting Coordinator

1. Martin Nickolas Pearson

A Chauffeur's Permit Appeal Hearing was called to determine whether or not the refusal by the Chief Constable to issue a Chauffeur's Permit to Martin Nickolas Pearson, should be upheld or overturned. The 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 Martin Pearson, dated March 27, 2015;

Letter from City of Vancouver to Martin Pearson, dated March 27, 2015

3. Memo from Constable Kevin Barker of the Vancouver Police to Chief Constable Jim Chu dated March 18, 2015;

Letter from Chief Constable to Martin Pearson dated March 18, 2015;

Taxi Unit Interview Check Sheet completed by Constable Barker on March 17, 2015

4. Letter from Imperial Global Chauffeurs Services Inc. to VPD Taxi Unit regarding Police Records Check for Martin Pearson;

VPD Request and Consent for Record Check and Disclosure

5. Ministry of Justice Report to Crown Counsel Accused History Report for Martin Pearson;
Narrative Text Hardcopy GO# 1202 2012-41544;

ICBC Driving Record Search pertaining to Martin Pearson
6. Chauffeur and Vehicle for Hire Permit Application submitted by Martin Pearson

Iain Dixon, Lawyer, Legal Department, was present on behalf of the City of Vancouver. Martin Nickolas Pearson represented himself.

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)(l) of the *Vancouver Charter*. He reviewed the applicable provisions of the Vehicles for Hire By-law and the *Motor Vehicle Act*. He further explained that this was an appeal by Mr. Pearson, 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* and noted that the rules of natural justice apply.

Mr. Dixon advised the Chief Constable refused to issue the Permit pursuant to section 36(5) of the *Motor Vehicle Act*, which grants the Chief Constable the discretion to refuse to issue a Chauffeur's Permit for any reason that leads him to believe that the applicant is unfit to act as a chauffeur. The refusal by the Chief Constable was therefore made on the basis that the Applicant has been charged with the following:

- February 14, 2013 - Production of Controlled Substance, contrary to section 7.1 of the *Controlled Drugs and Substances Act*, S.C. 1996, C. 19; and
- February 14, 2013 - Possession for the Purpose of Trafficking, contrary to section 5(2) of the *Controlled Drugs and Substance 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 Martin Nickolas Pearson. He noted the Panel should consider whether the Chief Constable correctly interpreted and applied the applicable legislation to this particular set of circumstances in determining whether or not a refusal of the Chauffeur's Permit was appropriate.

Mr. Dixon called Constable Kevin Barker, Taxi Unit, Vancouver Police Department, as a witness in support of the allegations.

The Panel asked questions of the witness.

The Appellant asked questions of the witness.

In opening, Mr. Pearson submitted his innocence in the charges laid against him on February 14, 2013 relating to the Production of a Controlled Substance and Possession for the Purpose of Trafficking and was advised by his lawyer to not speak of the details of his case as it had not yet gone to court. Mr. Pearson also noted personal hardships he has faced since he has been charged.

The Panel asked questions of Mr. Pearson.

In closing, Mr. Dixon reiterated that the *Motor Vehicle Act* gives the Chief Constable the discretion to reject Mr. Pearson's application for any reason that leads the Chief Constable to believe that Mr. Pearson is unfit to act as a chauffeur. The Chief Constable determined that Mr. Pearson's charges against him related to the Production of Controlled Substance (contrary to section 7.1, *Controlled Drugs and Substances Act*, S.C. 1996, C.19) and Possession for the Purpose of Trafficking (contrary to section 5(2) of the *Controlled Drugs and Substance Act*), rendered Mr. Pearson unfit to act as a chauffeur. The Chief Constable's concern was public safety. Mr. Dixon submitted that the Chief Constable's decision to not issue a permit was in accordance with the applicable legislation.

The Panel asked questions of Mr. Dixon.

In closing, Mr. Pearson advised he would not be seeking reapplication of a Chauffeur's Permit should he be found not guilty of the charges laid against him on February 14, 2013.

PANEL MEMBERS DECISION

In discussion, Panel members, after hearing all the evidence before them, concluded that the Chief Constable's refusal of Mr. Pearson's application should be upheld.

MOVED by Councillor Deal
SECONDED by Councillor Stevenson

THAT the Chauffeur's Permit Appeal Panel uphold the Chief Constable's decision to refuse to issue a Chauffeur's Permit to the Applicant, Martin Nickolas Pearson, based on evidence presented that indicates he is unfit to act as a Chauffeur.

CARRIED UNANIMOUSLY

ADJOURNMENT

MOVED by Councillor Deal
SECONDED by Councillor Stevenson

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The Chauffeur's Permit Appeal Hearing Panel adjourned at 10:44 am.

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