



CHAUFFEUR'S PERMIT APPEAL HEARING MINUTES

MAY 21, 2019

A Chauffeur's Permit Appeal Hearing of the Council of the City of Vancouver was held on Tuesday, May 21, 2019, at 9:35 am, in the Council Chamber, Third Floor, City Hall.

PRESENT: Councillor Colleen Hardwick, Chair
Councillor Lisa Dominato
Councillor Sarah Kirby-Yung

CITY CLERK'S OFFICE: Rosemary Hagiwara, Deputy City Clerk
Denise Swanston, Meeting Coordinator

The Panel agreed to deal with Item 2 prior to dealing with Item 1.

For clarity, the minutes are recorded in chronological order.

2. Kanwaljit Singh Bagri

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:

<u>Tab</u>	<u>Description</u>
1.	Notice of Hearing
2.	Letter from counsel for Kanwaljit Singh Bagri to City Clerk dated April 11, 2019; Letter from counsel for Kanwaljit Singh Bagri to Iain Dixon, counsel for City of Vancouver, dated April 11, 2019
3.	ICBC Driving Record Search for Kanwaljit Singh Bagri
4.	Chauffeur Permit Applications: A. 2005 B. 2007 C. 2009 D. 2010 E. 2011 F. 2013 G. 2015 H. 2016 I. 2019

5. Vancouver Police Department General Occurrence Reports:
 - A. 2006-73617
 - B. 2008-115762
 - C. 2011-109433
 - D. 2012-139899
 - E. 2015-39904
 - F. 2019-30044

6. Documents relating to GO 2019-30044
 - A. Notebook entries by Sergeant Jeff Rice dated February 14, 2019
 - B. Taxi booking Record
 - C. Yellow Cab booking log between February 9, 2019 and February 15, 2019 for Driver 536340

7. Report to Crown Counsel – Accused History Report;

Reasons for Judgment of the Provincial Court of BC, File No. 179097-1 (in relation to GO 2006-73617)

8. History of Allegations against Kanwaljit Singh Bagri (Sgt. Jeff Rice)

9. Taxi Unit Interview Notes from Constable John Braithwaite's interview with Kanwaljit Singh Bagri on February 15, 2019;

Taxi Unit Interview Check Sheet from Constable Braithwaite's February 15, 2019 interview with Kanwaljit Singh Bagri;

Memo from Constable Braithwaite to the Chief Constable dated April 5, 2019;

Letter from the Chief Constable to Kanwaljit Singh Bagri dated April 8, 2019

10. Relevant sections of

Motor Vehicle Act, RSBC 1996 c. 318

City of Vancouver's *Vehicles for Hire By-law* No. 6066

Iain Dixon, Assistant Director – Regulatory Litigation, Legal Department, was present on behalf of the City of Vancouver. Kanwaljit Singh Bagri was present and represented by Mr. William A. McLachlan, McLachlan Brown Anderson Barristers & Solicitors.

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*. Mr. Dixon reviewed the applicable provisions of the *Vehicles For Hire By-law* and the *Motor Vehicle Act*.

Mr. Dixon further explained that this was an appeal by Mr. Bagri, pursuant to section 36(7) of the *Motor Vehicle Act*, from the decision of the Chief Constable to cancel the appellant's Chauffeur's Permit under section 36(5) of the *Motor Vehicle Act*.

The refusal of the Permit application by the Chief Constable is pursuant to s. 6 of the City of *Vancouver's Vehicles For Hire* By-law No. 6066. The Chief Constable has refused the Permit application based on the following, as documented in the Notice of Hearing dated May 6, 2019, that was sent to Mr. Bagri by Registered Mail:

- the Applicant is a subject of multiple allegations of misconduct while employed as a taxi driver; and
- the Applicant has exhibited a pattern of behavior which indicates that he is unfit to act as a chauffeur.

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 Kanwaljit Singh Bagri. 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 Sergeant Jeff Rice, Taxi Detail, 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 asked questions of the witness.

Mr. McLachlan asked follow-up questions of the witness.

Mr. McLachlan provided the Panel with a transcript from a conversation between Mr. Bagri and Constable John Braithwaite, as recorded by Mr. Bagri and transcribed by Coast Reporting Services.

In opening, Mr. McLachlan noted that Mr. Bagri, prior to working for Yellow Cab was a driver of Richmond Taxi for six years, working the night shift, and never received a complaint during that time. Mr. McLachlan also noted that Mr. Bagri was trialed in relation to one of the charges and was acquitted.

Mr. McLachlan provided additional material to the Panel (copy on file). Subsequently, Mr. McLachlan called Mr. Bagri, as a witness in opposition to 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 asked questions of Mr. Bagri.

Mr. Dixon asked follow-up questions of Mr. Bagri.

In closing, Mr. Dixon indicated the case takes on a "he-said, she-said" tone, and had this been one or perhaps two incidences, the allegations could have perhaps gone unnoticed, but the fact

that there are six complaints of a similar nature presents a pattern. Mr. Dixon also noted that Mr. Bagri's explanations of the accounts are convenient and that the summary provided by Mr. Bagri seems to embellish details of incidents that occurred a number of years prior. Mr. Dixon suggested the Panel uphold the decision of the Chief Constable.

A panel member asked questions to Mr. Dixon.

In closing, Mr. McLachlan summarized the difficult decision the Panel had and reminded the Panel of ensuring fairness while taking into account that this is the livelihood of the defendant. Mr. McLachlan reminded the Panel that the Provincial court acquitted Mr. Bagri and that he passed a Polygraph test and noted that the VPD did not make Mr. Bagri aware of a number of the complaints.

The Panel asked questions to Mr. McLachlan.

PANEL MEMBERS DECISION

In discussion, Panel members, after hearing all the evidence before them, concluded that the Chief Constable's cancellation of Mr. Bagri's Chauffeur's Permit be upheld.

MOVED by Councillor Kirby-Yung
SECONDED by Councillor Dominato

THAT the Chauffeur's Permit Appeal Panel uphold the decision of the Chief Constable to cancel the Chauffeur's Permit issued to Kanwaljit Singh Bagri, based on the evidence of multiple allegations of misconduct while employed as a taxi driver, and has exhibited a pattern of behaviour which indicates he is unfit to act as a chauffeur.

CARRIED UNANIMOUSLY

MOVED by Councillor Dominato
SECONDED by Councillor Kirby-Yung

THAT the Chauffeur's Permit Appeal Hearing for Kanwaljit Singh Bagri be adjourned.

CARRIED UNANIMOUSLY

1. Rajender Singh Saroha

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:

<u>Tab</u>	<u>Description</u>
1.	Notice of Hearing; Letter from City of Vancouver to Rajender Singh Saroha dated April 10, 2019
2.	Chauffeur Permit issued to Rajender Singh Saroha (Expiry date: April 22, 2019); Chauffeur Permit Application (renewal)
3.	Letter from MacLure's Cabs to VPD Taxi Unit regarding Police Records Check; Police Information Check
4.	ICBC Driving Record Search for Rajender Singh Saroha; Insurance coverage history and claim experience for Rajender Singh Saroha
5.	Ticket Offence Hardcopy AJ01753690 (July 6, 2017); Ticket Offence Hardcopy AJ017539276 (January 11, 2018); Ticket Offence Hardcopy AJ10799677 (August 14, 2018); Ticket Offence Hardcopy AJ15033434 (January 10, 2019)
6.	Taxi Unit Interview Check Sheet from interview with Rajender Singh Saroha on March 28, 2019; Taxi Unit Interview Notes from March 28, 2019 interview; Letter from the Chief Constable to Rajender Singh Saroha dated April 4, 2019
7.	Relevant sections of the City of Vancouver's <i>Vehicles for Hire By-law</i> No. 6066

Iain Dixon, Assistant Director – Regulatory Litigation, Legal Department, was present on behalf of the City of Vancouver. Rajender Singh Saroha was present.

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*.

Mr. Dixon further explained that this was an appeal by Mr. Saroha, pursuant to section 36(7) of the *Motor Vehicle Act*, from the decision of the Chief Constable to cancel a Chauffeur's Permit under section 36(5) of the *Motor Vehicle Act*.

The cancellation of the Permit by the Chief Constable is pursuant to s. 6(6) of the City of Vancouver's Vehicles For Hire By-law. The Chief Constable ascertained that the Applicant was convicted of the following while employed as a taxi driver:

- July 6, 2017 -speeding in or outside a municipality, contrary to section 146(1) of the Motor Vehicle Act;
- January 11, 2018 - unsafe passing on the left contrary to Section 159 of the Motor Vehicle Act;
- August 14, 2018 - disobeying traffic sign or signal indicating that a certain vehicle movement is prohibited, contrary to section 161(b) of the Motor Vehicle Act;
- January 10, 2019 - unsafe/prohibited U-turn in a business district, contrary to section 158(b)(v) of the Motor Vehicle Act.

Mr. Dixon noted that as Mr. Saroha has received over three violations within the past two years, the panel will need to uphold the decision of the Chief Constable to cancel the Chauffeur's Permit.

A panel member asked questions of Mr. Dixon.

PANEL MEMBERS DECISION

MOVED by Councillor Dominato
SECONDED by Councillor Kirby-Yung

THAT the Chauffeur's Permit Appeal Panel uphold the decision of the Chief Constable to cancel a Chauffeur's Permit issued to Rajender Singh Sahora, based on evidence of persistent infringements of the *Motor Vehicle Act* within the preceding two years that indicate he is unfit to act as a Chauffeur.

CARRIED UNANIMOUSLY

ADJOURNMENT

MOVED by Councillor Dominato
SECONDED by Councillor Kirby-Yung

THAT the Chauffeur's Permit Appeal Hearing for Rajender Singh Saroha be adjourned.

CARRIED UNANIMOUSLY

The Chauffeur's Permit Appeal Hearing adjourned at 1:27 pm.

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