



To: Mayor and Councillors
From: Claudia Jesson
Manager, Legislative Services
Date: December 14, 2018
File: 12-8275-02/2018
Re: **Chauffeur's Permit Appeal Process – Mr. Faisal Nadeem**

In accordance with the *Motor Vehicle Act*, an appeal may be made to the Council of a municipality following a refusal of a Chauffeur's Permit by the RCMP. As this is a relatively rare occurrence at Council, the attached document titled *Chauffeur's Permit Appeal Process* is provided as a general reminder and guideline on the procedure for the meeting. Mr. Nadeem has been provided a copy of the general procedure, this memorandum and the attached documents.

Attached to this memorandum are the following documents relating to this appeal:

- The RCMP's *Application Criteria and Permit Processing Guidelines* (**Attachment 1**);
- The RCMP letter to Mr. Nadeem, dated September 26, 2018 informing him of the decision to refuse issuance of the Chauffeur's Permit (**Attachment 2**);
- Mr. Nadeem's letter of appeal, received October 15, 2018 (**Attachment 3**); and
- A report to Council from Cpl. Etienne describing matters relevant to the RCMP decision to deny the permit (**Attachment 4**).

Following the hearing, Council may:

- a) consider a motion to uphold the denial;
- b) consider a motion to grant the appeal; or
- c) consider a motion to delay consideration of the matter.

If you have any questions concerning this process, please feel free to contact me at 604-276-4006.

Claudia Jesson
Manager, Legislative Services

Encl.

Chauffeur's Permit Appeal Process

Under section 36 of the *Motor Vehicle Act*, the RCMP may refuse to issue a chauffeur's permit or cancel or suspend an existing chauffeur's permit if the applicant is considered unfit to act as a chauffeur. Section 36(7) permits an applicant to appeal to City Council to have a decision of the RCMP overturned. Council's decision on such an appeal is final, subject only to judicial review by the BC Supreme Court. Attached is section 36 of the *Motor Vehicle Act*.

The Hearing or Council Meeting

Chauffeur permit appeals are generally heard at open City Council meetings, which means members of the public or media are free to attend and observe the hearing. Appeals are generally set for a Special Council meeting, rather than a regularly scheduled Council meeting.

Agendas and Minutes

In accordance with normal practice, open Council meeting agendas are published on the City website on the Friday evening preceding the meeting date. The published agendas include related materials such as any supporting documents and reports. For chauffeur permit appeals, the agenda materials may include the applicant's appeal letter and supporting materials, procedural information regarding the conduct of the appeal hearing, and the RCMP file on the permit application. The RCMP file may include the permit application form, any materials relied upon during the decision-making process, the letter or notice from the RCMP to the applicant outlining the reasons for refusal of the permit, and any other relevant documents. All documents that are to be provided to Council will normally be provided to the permit applicant three (3) to four (4) weeks prior to the Council meeting at which the appeal will be heard.

Minutes are taken at the meeting. These minutes document the appeal hearing and any decision arrived at by City Council. In accordance with normal practice, minutes for open Council meetings are also published on the City website in the days following the meeting.

Conduct of the Appeal

The Mayor presides as the Chair of the meeting and will provide direction to the applicant as the proceedings unfold. Applicants and their representatives should address the Mayor as "Your Worship" and all questions about how the meeting is being conducted are to be directed to the Mayor.

The order of the proceedings will be as follows:

1. The RCMP Officer who processed the application will be called upon by the Mayor to review the file, explain why the permit was denied, and answer any questions that may be posed by the Council members.
2. Once Council has heard from the RCMP Officer, the applicant will be called forward by the Mayor to present the appeal. The applicant may present the appeal or have a lawyer or other representative present the appeal on his or her behalf.

There is no time limit placed on the applicant's presentation, provided the information provided is relevant and the proceedings are not being obstructed.

3. Following the applicant's presentation of the appeal, Council members may pose questions to the applicant.
4. Following any questions by Council members, the applicant may pose questions to the RCMP Officer.
5. If any additional witnesses were called upon to provide information to Council, Council and the applicant may pose questions to the additional witnesses.
6. Once all questions have been answered, the applicant will be excused by the Mayor, at which time the applicant would return to the audience.
7. Council members would then deliberate on the matter in open (before any members of the public or media who may be present at the meeting). During Council deliberations, the applicant is not permitted to participate and can only observe from the audience.
8. Following deliberations, Council will take one of several possible actions: 1) uphold the RCMP's decision; 2) overturn the RCMP's decision; or 3) consider another motion or action appropriate to the circumstances (such as refer the matter to the RCMP or staff for further information or investigation).

Council's Decision

Council's decision on an appeal is final and can only be overturned by judicial review by the BC Supreme Court. Written confirmation of Council's decision will be provided to the applicant in the days following the meeting. Council's decision is also published in the minutes of the meeting, which is available on the City website.

Extract from the *Motor Vehicle Act*

Municipal chauffeur permits

36

- (1) In this section, "**chief of police of the municipality**", in the case of a municipality policed by the Commissioner of Provincial Police, means the senior member of the Royal Canadian Mounted Police in that municipality.
- (2) [Repealed 2008-15-22.]
- (3) A chauffeur, within a municipality that has passed a bylaw under subsection (11), must not drive, operate or be in charge of a motor vehicle carrying passengers for hire unless he or she holds a permit for that purpose issued to him or her by the chief of police of the municipality.
- (4) A chauffeur to whom a permit is issued under subsection (3) must comply with all regulations made by the municipality that are not repugnant to this Act or the regulations.
- (5) If the police chief of the municipality, on proof to his or her satisfaction, believes that a person holding a permit under subsection (3), because of his or her use of or dealing in intoxicants or narcotic drugs or any other reason, is unfit to act as a chauffeur, the police chief may suspend or cancel the permit.
- (6) If an applicant for a chauffeur's permit is refused or a chauffeur's permit is suspended or cancelled by the chief of police in a municipality, the chief of police must within 24 hours after the refusal, suspension or cancellation notify the applicant or holder in writing stating the grounds.
- (7) An appeal lies to the council of the municipality from a refusal, suspension or cancellation under subsection (6).
- (8) On an appeal under subsection (7), the decision of the council is final.
- (9) A fee must not be payable for a permit issued under subsection (3).
- (10) A chauffeur who holds a permit granted or issued under this section must
 - (a) have it in his or her possession at all times while driving or operating a motor vehicle on a highway, and
 - (b) produce it for inspection at any time on the demand of a peace officer or constable.
- (11) The council of a municipality may by bylaw provide for the regulation, in accordance with this section, of chauffeurs in the municipality and for the issue of permits to chauffeurs by the chief of police.

Application Criteria:

- 1) Minimum 19 years of age. (as per Sec. 36(2) M.V.A.)
- 2) Valid Class 1,2, or 4 B.C. Operator's Licence
- 3) Applicant must be Canadian citizen or landed immigrant or legally entitled to work in Canada.
- 3) Five (5) or less hazardous moving violations in the past five (5) years as scheduled in the Motor Vehicle Act Regulations.
- 4) After January 01, 2006 all applicants must have successfully completed 27 hours of industry-related training in the areas of professional driving, taxi industry and local knowledge, and the Super Host for Taxicab Drivers or equivalent training.
- 5) After April 01, 2006 all applicants must have successfully completed the initial 27 hours of training and an additional 16 hours of industry-related training in the areas of defensive driving and collision avoidance, driver safety and assault avoidance, and transporting people with disabilities.
- 6) All current Chauffeurs who have not successfully completed the initial 27 hours of industry-related training have until April 01, 2006 to complete this training and until April 01, 2007 to successfully complete the additional 16 hours of industry-related training.

The above noted training must be delivered by an accredited training institution as approved by the municipality.
- 7) Applicants must not have criminal convictions in the past five years for: all crimes of violence (including family violence), Sex Offences, Criminal Code Traffic offences, Weapons offences, and/or Alcohol/Drug related offences. All other offences will be reviewed on a case-by-case basis.
- 8) Applications may not be approved while outstanding criminal matters are before the courts. Any other charges or convictions will be reviewed on a case-by-case basis.
- 9) Matters under the mental health act will be reviewed on a case-by-case basis supported by medical reports/recommendations from the applicant's caregiver.
- 10) Applicants must disclose if they have been denied or refused a chauffeur's permit in any other Lower Mainland jurisdiction.

Application Requirements:

- 1) The applicant will provide an I.C.B.C. recent claims history at time of application or renewal (within 30 days of the application date).
- 2) The applicant will make full and complete disclosure on all outstanding criminal charges and/or convictions.

Application Requirements (Continued) :

- 3) The applicant will be denied for providing any false, misleading or incomplete information.
- 4) The applicant may be required to successfully pass an area knowledge test as per local municipal criteria.
- 5) In the event of failure of this test, an opportunity to re-test will be allowed after one week, a second one after another month and a third re-test after three months from the initial test, with no further opportunity to re-test thereafter.
- 6) The application fee is according to the local municipal fee structure.

The following documents must be produced by the applicant at the time of application:

- 1) Valid B.C. Picture Driver's Licence:
- 2) Two colour passport photographs
- 3) Recent I.C.B.C. Claims History (within last 30 days)
- 4) Canadian birth certificate or Canadian citizenship card or a valid Canadian passport, or proof of legal entitlement to work in Canada.
- 5) Letter of employment by local taxi company in the local area.

Screening Process:

N.B.: Subject MUST provide informed consent for CPIC including access to BC Paris through CPIC. Consent for Disclosure of Criminal Record Information and Consent for Vulnerable Sector forms must be completed and submitted with Chauffeur application.

Applicant's information will be checked against the following databases:

CPIC, NCIC, PIRS, CHDS, PRIME-LEIP, NCDB,
JUSTIN (for outstanding criminal charges),
Driving History,
ICBC Claims history (from the list provided by the applicant).

Of note: The application fee is not refundable on refusal or cancellation of a chauffeur's permit.

Grounds for Refusal, Cancellation or Suspension of Chauffeur's Permit: Permit may be refused, cancelled or suspended if:

1. Upon conviction of any serious criminal code offences (eg. Impaired Driving, Dangerous Driving, Assault, etc...)
2. Charged with any serious, violent criminal offence or drug trafficking.
3. If applicant has accrued 3 or more moving violations over any 12 months
4. Received more than one Sec. 215 Motor Vehicle Act Driver's Licence suspension in the past five years.
5. Charged with operating a vehicle while under the influence of alcohol or a drug.
6. Charged with operating a vehicle while their driver's licence is suspended or prohibited.
7. Excessive customer complaints (3 or more in any 12 months period.)
8. Is the subject of any reports indicating health conditions resulting in a lack of fitness to act as a chauffeur.
9. Found at fault in 3 or more Motor Vehicle Collisions over any 12 months period, with over \$1000.00 damage or bodily injuries.
10. Application will not be processed if incomplete (including all required attachments) and will be declined if application contains false information.
11. If an applicant has been charged with any of the offences mentioned above, he/she can re-apply upon resolution of the outstanding charges.
12. Application may be declined if indices check reveals pattern of violence, instability or substance abuse.

Note: Suspension period may vary according to the seriousness of the offence. In some instances, compulsory defensive driving courses and /or alternative measures may be required before reinstatement of a permit.

Permit holder will be evaluated using the indicated criteria, however, If the police chief of the municipality, on proof to his or her satisfaction, believes that a person holding a permit under subsection (3), because of his or her use of or dealing in intoxicants or narcotic drugs or any other reason, is unfit to act as a chauffeur, the police chief may suspend or cancel the permit. (Sec. 36 Motor Vehicle Act)

Revised 2005 May 11/06



Royal Canadian Mounted Police Gendarmerie royale du Canada

Attachment 2

Richmond RCMP
11411 No. 5 Road
Richmond, B.C.
V7A 4E8

Your File

Faisal NADEEM
9329 K ngsley Crescent
Richmond, BC
V4A 4V6

Our File

2018-30442

2018-09-26

Dear Mr. NADEEM

Re: Chauffeur's Permit

On September 21, 2018 you attended the Richmond RCMP detachment to apply for Chauffeur's Permit. A review was conducted and our records indicate numerous violation tickets being issued to you within the last three years by police. In addition to this you have been involved in numerous collisions in the same period of time. One where passengers of your taxi were injured.

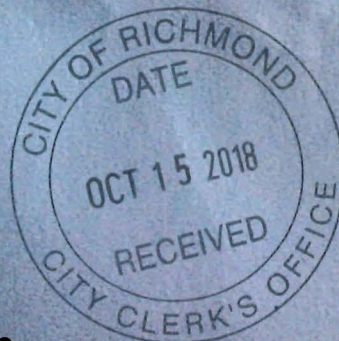
For these reasons the Richmond RCMP have concern for your fitness and abilities to act as a chauffeur in the City of Richmond. Your application for a Chauffeur's Permit is being denied.

You have the right to appeal before City Council should you choose.

Yours Truly,

Cpl. Dean ETIENNE
Road Safety Unit
Richmond Detachment
11411 No. 5 Road, B.C.
V7A 4E8

Supt. William NG
OIC Richmond Detachment
11411 No 5 Road, B.C.
Richmond, B.C.
V7A 4E8



CityClerk

From: Faisal Nadeem <faisalnadim1984@gmail.com>
Sent: Saturday, 13 October 2018 13:06
To: CityClerk
Subject: council c/o The City Clerk

Dear City Clerk,

I am writing to respectfully appeal RCMP's decision on denying to renewing my Chauffeur 's permit.

I have have received violation tickets and have been in collisions and none were my fault. I am sorry if passengers were injured in the collisions.

Please have RCMP reconsider their decision and allow them to renew my Chauffer's permit so I can continue do my job safely.

sincerely;

Faisal Nadeem



Royal Canadian Mounted Police
Gendarmerie royale du Canada

Attachment 4

Security Classification/Designation

Richmond RCMP
11411 No. 5 Road
Richmond, B.C.
V7A 4E8

Your File

Claudia Jesson - Manager, Legislative Services
City Clerk's Office
City of Richmond
6911, No. 3 Road, BC
V6Y 2C1

Our File

2018-30442

2018-11-07

Faisal NADEEM - Chauffeur's Permit Application Refusal

On September 21, 2018 Faisal NADEEM attended Richmond Detachment to apply for a renewal of his chauffeur's permit. Richmond Taxi Co. Ltd acted as the sponsor for the above noted driver.

A thorough records check was completed on PRIME (Police Records Information Management Environment). This was forwarded to Cpl. Dean ETIENNE for review and recommendation. A summary of that review is as follows. This review provides the supporting documentation for the basis of the denial of the application dated September 26th by Cpl. Dean ETIENNE. This review does not include a driving history from ICBC.

Files that were reviewed were dated back to the last permit that was issued in October of 2016. All files reviewed were from police jurisdictions in the lower mainland of BC.

2018 Files

March 2018 - NADEEM was involved in a two vehicle collision in Vancouver. NADEEM was injured and the other driver had left prior to police arrival. The two had exchanged info and the other driver left as his vehicle was driveable. Police did not determine fault. No violation ticket issued.

March 2018 - NADEEM received a violation ticket for Fail to Stop for Red, Section 129(1) in Vancouver. NADEEM was driving a taxi at the time of the offence. A police officer was parked roadside when he noticed a red taxi approaching at a high rate of speed. The driver, NADEEM, saw the police car and immediately slowed and then passed the police car. The officer followed and saw him proceed through a red light. NADEEM argued with the officer on scene even though the officer was specifically watching NADEEM's vehicle enter the intersection when the light was red.

June 2018 - NADEEM was issued a Use Electronic Device violation ticket. Section 214.2(1) while driving a taxi cab. No other details of the interaction or circumstances. Vancouver Police Service.

July 2018 - NADEEM was driving a Richmond Taxi cab and while attempting an illegal U-turn was struck on the driver side of his taxi. NADEEM indicated he was injured but EHS determined there was no apparent injury. The collision was at Jacombs Rd and Jackbell Dr. Both vehicles were found in the northbound lane of Jacombs Rd when police arrived. The taxi had extensive damage to the driver's side and all airbags were deployed. NADEEM reported he was southbound when he received a "tip" and proceeded to complete a U-Turn. Violation ticket was issued for the offence.

July 2018 - Received a speeding violation ticket for Section 146(1) while driving his taxi cab. A speed cannot be determined from the file but NADEEM was charged for less than 21 km/hr over the posted limit. Vancouver Police Service.

2017 Files

June 2017 - Received a speeding violation ticket for Section 146(1) while driving a taxi in Vancouver. Cannot determine what the speed was but was charged for less than 21 km/hr over the posted limit. Vancouver Police Service.

March 2017 - While driving a Richmond Taxi was involved in a two vehicle collision. NADEEM was proceeding north on Jacombs Rd when he was not able to stop for a large transport truck and trailer that was turning on Jacombs Rd from Worster Court. NADEEM had two passengers that were injured when his cab ran into the side of the truck. There was heavy, wet snow on the ground and limited visibility. The truck driver estimated NADEEM's speed at 70 km/hr while NADEEM said he was only going 45 km/hr. NADEEM's passengers were not able to provide a speed estimate. Photo's were reviewed. NADEEM was issued a violation ticket for speed relative to the conditions, Sec. 144(1)(c). Richmond Taxi did not supply GPS data or in car video to assist with the investigation.

January 2017 - While driving a Richmond Taxi NADEEM was involved in a two vehicle collision in Richmond on Westminster Hwy. The vehicle in front of NADEEM came to a stop and he ran into the rear of that vehicle. NADEEM was issued a ticket for following too closely.

Conclusion

Faisal NADEEM voluntarily included documents he received from ICBC showing two violation ticket convictions. One for Follow Too Closely in January of 2017 and one for Speed Against Municipal Sign in June of 2017. The status of the remainder of the violation tickets were not checked. One of the documents shows three at fault determinations by ICBC with NADEEM at more than 25% liable. Two of these were from 2017 and the third in July of 2018.

After careful review of the information included in this report it was apparent to Cpl. ETIENNE that the applicant, Faisal NADEEM, should not be granted a renewal of his chauffeur permit in the City of Richmond.

An updated request for driving record has been sent to ICBC and will be presented at the time of hearing. Please note that NADEEM attended Richmond Detachment and spoke with Cpl. ETIENNE after his application for appeal was made. A lengthy discussion ensued regarding the rationale for his denial.

This information is respectfully submitted by Cpl. Dean ETIENNE and is solely intended for the purposes of NADEEM's appeal of his chauffeur application denial.

Yours Truly,



Cpl. Dean ETIENNE
Road Safety Unit
Richmond Detachment
11411 No. 5 Road, B.C
V7A 4E8

Supt. William NG
OIC Richmond Detachment
11411 No 5 Road, B.C.
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