



To: Mayor and Councillors
From: Claudia Jesson
Manager, Legislative Services
Date: April 15, 2019
File: 12-8275-02/2019-Vol 01
Re: **Chauffeur's Permit Appeal Process - Mr. Amritpal Sandhu**

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. Sandhu 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. Sandhu, dated March 13, 2019 informing him of the decision to refuse issuance of the Chauffeur's Permit (**Attachment 2**);
- Mr. Sandhu's letter of appeal, received March 28, 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.
- (4) Five (5) or less hazardous moving violations in the past five (5) years scheduled in the Motor Vehicle Act Regulations.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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.
- (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.
- (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 on 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, CIIDS, PRIM-LEIP, NCDP,
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 accrues 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 \$1,000.00 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).



Royal Canadian Gendarmerie royale
Mounted Police du Canada

Security Classification/Designation

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

Your File

Amritpal SANDHU
7931 18th Ave
Burnaby, BC
V3N 1J7

Our File

2019-6756

2019-03-13

Dear Mr. SANDHU

Re: Chauffeur's Permit


On February 22, 2019 you attended the Richmond RCMP detachment to apply for Chauffeur's Permit. A review was conducted that included police and criminal records checks from the past 2 years.

Although your driving record is relatively good you do have a number of concerning files that show a pattern of alcohol abuse and mental health calls. The guidelines regarding grounds for permit refusal are quite clear. A pattern of instability and substance abuse is the grounds for your refusal.

For this reason the Richmond RCMP have concern for your fitness and ability 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 Richmond City Council should you choose.

Yours Truly,



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

CITY OF RICHMOND
INFO CENTRE

MAR 28 2019

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

Richmond City Hall
6911 No 3 Road
Richmond, V6Y 2C1
Canada

Dear Council or whomever this may concern,

First of all I want to thank you for taking the time for reviewing my application for Chauffer's Permit. I'm hoping that I'm granted this permit, as I need a additional source of income to provide for my family as the cost of living here is difficult for me and my family. I have a class 1 drivers license and completed the necessary training to drive a taxi to make a honest living for my family.

I know that I've had a problem with alcohol abuse in the past, and have taken in action but I am attending AA meetings daily and have been sober for the last 5 months. I plan to continue my sobriety as I am now 55 years of age, and as an aging individual have realized that my past alcohol abuse had caused me to hallucinate which resulted in those mental health calls to the police. I'm a kind and generous individual who is looking forward to the future and hopefully you will consider my application for a chauffeurs permit with the City of Richmond.

Sincerely,

Amritpal Singh Sandhu

AMRITPAL SANDHU.

Amritpal Sandhu

PH 778-862-8924

CITY OF RICHMOND
CIVIC CENTRE

MAR 28 2019



Chaufeur's Permit #: 2019-37

Chaufeur's Permit to operate a motor vehicle carrying passengers for hire. Issued by the Chief Constable of the City of Burnaby, pursuant to the provisions of the Motor Vehicle Act.

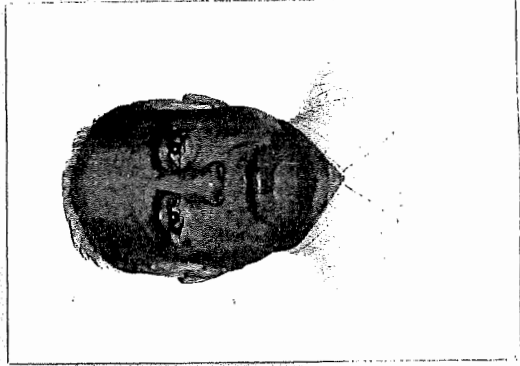
Driver License #: 4132002

Class: 1

DL Expiry Date: 2022-11-11

Name: SANDHU, Amritpal Singh

Taxi Company: BONNY'S TAXI LTD.
5525 Imperial Street
Burnaby, B.C. V5J 1E8



Permit Issue Date: 2019-02-04

Permit Expiry Date: 2020-02-15

A handwritten signature in black ink, appearing to read "A. Sandhu".

Chief Constable

This permit shall be carried by the person in whose name it is issued and be produced for inspection on demand by any police officer, constable or license inspector.



Royal Canadian Gendarmerie royale
Mounted Police du Canada

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

2019-6756

2019-04-03

Amritpal SANDHU - Chauffeur's Permit Appeal

On February 22, 2019 Amritpal SANDHU attended Richmond Detachment to apply for a renewal of his chauffeur's permit. Richmond Taxi Co. Ltd acted as the sponsor for SANDHU.

A 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 March 13th by Cpl. Dean ETIENNE. This review does not include a driving history from ICBC.

Files that were reviewed date back to the start of 2008. All files reviewed were from police jurisdictions in the lower mainland of BC.

2018 Files (6)

- SANDHU called police to report he heard a male threaten to kill him through a microphone. SANDHU said he could hear voices through the air and had not slept in 3 days. Police took him home and spoke to a family member. They indicated that SANDHU had been prescribed medication for his hallucinations and that they would take him back to the doctor that day.
- SANDHU called police stating that 6-8 people were after him and threatening him and his family. SANDHU said he was at a massage appointment when he heard people talking inside the office that said they were after him. Follow up determined the report was false. Checks revealed a similar call from 03:00 the same day. SANDHU was apprehended and taken to hospital. Further follow up with SANDHU's family completed. They said he hallucinates when he drinks and has been drinking for days. SANDHU was given meds and advised to contact detox.

- Numerous calls to police from SANDHU and eventually family. SANDHU was hallucinating that there were people on his roof. Family indicated he had been drinking and would try to take care of him. They had plans to take him to see the doctor the following day.
- Report of an intoxicated male staggering and almost falling into traffic on a very busy roadway. Male located and identified by police as SANDHU. Care of SANDHU transferred to family after police were able to contact them.
- Police attended a complaint of an unwanted guest at a local hotel. Male, later identified as SANDHU, had not checked out and was now refusing to leave. SANDHU found to be severely intoxicated and not able to take care of himself so much so that EHS was called to assess him. SANDHU taken to hospital for further assessment by a doctor.
- SANDHU was the subject of an intoxicated male complaint at Vancouver International Airport. SANDHU had missed his international flight and was reported to be drinking directly from an expensive bottle of liquor in a duty free liquor store. SANDHU was slurring his speech and had trouble with his balance.

2017 Files (3)

- SANDHU called police to report that someone was going to destroy his home. He stated that someone put something magic in his neck and that they could return quickly to the location using this magic. He called 911 numerous times prior to police getting to his residence. Family again confirmed that SANDHU was intoxicated and acted like this when he was intoxicated.
- Police attended SANDHU's residence. The officer attending had been there before and was aware of SANDHU's issues with mental health and drinking. SANDHU had called to report that people were coming to his house to kill him. Family assisted with the situation.
- Police responded to a disturbance near SANDHU's residence. A neighbour of his called police as SANDHU told him that people were threatening to kill him and his family. SANDHU's family attended the neighbors' residence to apologize but police had already been called. On arrival family was cooperative and confirmed that they would take care of SANDHU.

2016 Files (1)

- Police responded to a call where a barefoot, distraught male was seen running into a local hotel. The male, later identified as SANDHU, was not a guest. He was telling people his son was trying to kill him. SANDHU was found sweating, appeared paranoid and very agitated. Checks with family determined he had been drinking and taking sleeping pills. SANDHU was apprehended and taken to hospital.

2013 Files (2)

- Police responded to a disturbance at a hotel in the community in which SANDHU resides. Staff called advising an intoxicated guest, SANDHU, was bothering other guests. They reported that he is a repeat guest who stays with them when intoxicated to hide from his family. Family attended and took control and care of SANDHU.
- A complaint against SANDHU was made from a taxi customer who believed he was impaired and smelled of alcohol. Police followed up and determined he was not intoxicated at the time.

2012 Files (1)

- Police responded to a complaint of an unwanted, intoxicated male causing a disturbance at a local taxi company. The male was located and determined to be SANDHU. Arrangements made for his family to take custody and care of him.

2011 Files (1)

- Intoxicated male causing a disturbance at a local hotel. Found to be SANDHU. Police made arrangements for his family to take care and custody of him.

2010 Files (3)

- SANDHU called police to report his sister had been kidnapped and was being held hostage. SANDHU was found yelling and confused by police. Police determined that SANDHU was intoxicated and experiencing paranoia. SANDHU was eventually apprehended and taken to hospital. Family was notified.

- SANDHU was arrested for being intoxicated in public. He was found walking in the middle of the roadway, arrested and held in cells.

- SANDHU was arrested for cause disturbance due to intoxication. He failed to pay a taxi fare and was found in a state where he was not able to stand due to being heavily intoxicated. Held in cells.

2009 Files (7)

- SANDHU was heavily intoxicated and found breaching release conditions. Arrested and charged.

- SANDHU attended probation services office intoxicated and was causing problems. Police attended and arrested him for public intoxication. No charges pursued.

- SANDHU was found laying on a busy roadway impeding traffic. Police found him belligerent and uncooperative. EHS transported him to hospital where he was eventually released but he decided to cause further problems there. He was arrested and lodged in cells.

- SANDHU was the subject of 4 more intoxicated in public calls in 2009 in which police were called to deal with him.

2008 Files (5)

- There are 5 documented files in which police dealt with SANDHU because he was intoxicated and causing problems. He was also charged in relation to an assault where he was intoxicated at the time.

Conclusion

After careful review of the information included in this report it was apparent that the applicant, Amritpal SANDHU, should not be granted a renewal of his chauffeur permit in the City of Richmond. Mr. SANDHU was advised by phone by Cpl. ETIENNE of the refusal and subsequent rationale. Mr. SANDHU began to argue and would not listen to the reasons by which the refusal was based on. A letter was sent to follow up this conversation to Mr. SANDHU.

It is apparent that the City of Burnaby has granted a chauffeur permit to Amritpal SANDHU recently as he included it with his application.

The Richmond application was refused as there is clear grounds for refusal under the guidelines in the bylaw in Richmond. The application was declined on the following ground as outlined in the bylaw.

"Application may be declined if indices checks reveal a pattern of violence, instability, or substance abuse."

It is clear from the review that there is a pattern of instability and substance abuse. The applicant has indicated and will argue that he is better now and receiving treatment. It has been Cpl. ETIENNE's experience that people with substance abuse issues do not recover quickly or completely. This is the reason for the lengthy review period. There are clear periods when the applicant was the subject of greater police involvement in his life and periods of less.

Over the last 2 years there is a distinct increase in the rate and severity of the calls for police involving Amritpal SANDHU. Please consider that calls for police to deal with SANDHU's instability and substance abuse issues are likely only a fraction of the times where his substance abuse affected those around him.

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

Yours Truly,

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

Supt. William NG
OIC Richmond Detachment
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