



City of Richmond

Memorandum
Finance and Corporate Services Division
City Clerk's Office

To: Mayor and Councillors
From: David Weber
Director, City Clerk's Office
Date: March 31, 2017
File: 12-8275-02/2017-Vol 01
Re: **Chauffeur's Permit Appeal Process – Mr. Mohammad A. Mohsin**

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. Mohsin 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. Mohsin, dated February 21, 2017 informing him of the decision to refuse issuance of the Chauffeur's Permit (**Attachment 2**);
- Mr. Mohsin's letter of appeal, received March 2, 2017 (**Attachment 3**); and
- A report to Council from Sgt. Quilley 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 604-276-4098.

David Weber
Director, City Clerk's Office

Encl.



City of Richmond

6911 No. 3 Road,
Richmond, BC V6Y 2C1
www.richmond.ca

March 15, 2017
File: 12-8275-02/2017-Vol 01

Finance and Corporate Services Division
City Clerk's Office
Telephone: 604-276-4007
Fax: 604-278-5139

Mohammad A. Mohsin
6240 No. 5 Road
Richmond, BC V6Y 2T9

Dear Mr. Mohsin:

Re: Chauffeur's Permit Appeal

This letter is in relation to your request to appear before Richmond City Council to appeal the decision of the Richmond RCMP to deny your application for a Chauffeur's Permit. The City is now in receipt of the RCMP's records in regards to this matter and will be able to proceed with your appeal.

Details of the appeal process are outlined in the attached document titled *Chauffeur's Permit Appeal Process*. Also enclosed with this letter is the full documentation that will be presented to Council for the appeal hearing. In accordance with normal City practice, these documents will be published on the City website as part of the agenda for the open Council meeting at which your appeal will be heard. Please review and familiarize yourself with this material and bring it with you to the meeting.

As per our telephone conversation of March 15, 2017, this is to confirm that a hearing has been set for you to appear before Richmond City Council on Monday, April 3, 2017 at 4:00 p.m. in the Anderson Room, 2nd Floor of the meeting house. Following receipt of this letter, I ask that you contact me at 604-276-4006 to confirm that you wish to proceed with the appeal.

If you have any further questions or concerns, please feel free to contact me at 604-276-4006.

Regards,

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. Attached to the published agendas are typically found 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 31/06



Royal Canadian Mounted Police
Gendarmerie royale du Canada

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Security Classification/Designation
Classification/désignation sécuritaire

Unclassified

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

Your File Votre référence

Mohammad Aqil MOHSIN
6240 Number 5 Road
Richmond, B.C.
V6Y 2T9

Our File Notre référence

2017-5434

2017-02-21

Dear Sirs,

REQUEST FOR CHAUFFEUR'S PERMIT

On February 2, 2017, you attended the Richmond RCMP detachment to obtain a Chauffeur's Permit. Our records indicate you have an outstanding drug trafficking charge from an incident that occurred in June of 2016 in Vancouver. The City of Richmond does not approve Chauffeur's Permits to anyone with a serious criminal charge, such as a drug trafficking. Your application for a Chauffeur's Permit is being denied.

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

Yours Truly,

~~Sgt. R. QUILLEY~~
Reg. #40868

Supt. Rendall Nasset
OIC Richmond Detachment
11411 No 5 Road, B.C.
Richmond, B.C.
V7A 4E8

Attachment 3

March 2, 2017

BY HAND

City Council
City Hall
6911 No. 3 Road
Richmond, BC V6Y 2C1

Dear Mayor and/or Councillors

RE: CHAUFFEUR'S PERMIT APPEAL

On February 21st I had been denied to renew my chauffeur permit and I would like to appeal the decision that was made by the Richmond Royal Canadian Mounted Police (RCMP).

This permit is important to me for many reasons including:

- It provides me with my only source of income,
- My wife is unable to work due to minor medical issues,
- This job is the only way I am able to pay for my household expenses, and
- If I cannot get my permit renewed I have no backup job

As a hard-working husband, father, and workaholic, I would greatly appreciate it if you consider the appeal that is being made.

I have attached a copy of the letter I received from the Richmond RCMP stating the denial of my permit, which outlines the detailed reasoning as why it was refused due to an incident that had occurred in the month of June 2016.

My current chauffeur permit will expire on March, 13 2017 and I would like to receive a response relatively near to that date. Feel free to contact me any time at 778.839.7861 or mohsin604@yahoo.com.

Sincerely

Mohammad A. Mohsin

Encs.



**CNCL - 12
(Special)**

Attachment 4

MOHSIN, Mohammad Aqil – Richmond City Chauffeur Permit Refusal

On Feb 2 2017, Mr. MOHSIN, attended the Richmond RCMP office and submitted an application for a City of Richmond Chauffeur permit. As part of this process criminal background checks are completed by RCMP staff. In one of the queries a file of concern was noted from Vancouver Police Department. This file was from June of 2016. RCMP staff forwarded Mr. MOHSIN's application to Sgt. Quilley for review. On the 21 February 2017 Sgt. Quilley conducted a review of Mr. MOHSIN's application. In this review Sgt. Quilley read through the contents of the Vancouver Police Departments file that Mr. MOHSIN is associated to. As a result of this review Sgt. Quilley denied Mr. MOHSIN's application on the following ground as found in the City of Richmond's Chauffeur Permit application Criteria. 1). Charged with any serious, violent criminal offence or drug trafficking.

The file noted is an ongoing matter before the courts, is a large file and as such the details we are able to provide have to be somewhat generic as to not compromise any ongoing court matters.

The file noted involved a large police investigation into several locations. One of these locations included a store where Mr. MOHSIN was employed. In August of 2016, the Vancouver Police conducted a series of search warrants including one at the business where Mr. MOHSIN was employed. Mr. MOHSIN was present in the store when the warrant was executed. He was arrested at the time. During the search of the business large amounts of packaged (for sale) Heroin (laced with Fentanyl), rock cocaine and powdered cocaine were recovered. A number of weapons, large amounts of cash and other documents and paraphernalia associated to drug trafficking were recovered. It is noted that Mr. MOHSIN was employed at and work at this business which appears to be primarily a front to traffic in narcotics. It is also noted that Mr. MOHSIN was actively involved in the sale of narcotics from this business. Mr. MOHSIN has been charged with Drug Trafficking and is awaiting trial at this time.

The offence Mr. MOHSIN is charged with is a very serious offence and Sgt. Quilley's review of this file would indicate that Mr. MOHSIN was involved in a participated in the sale of illegal narcotics. The nature of this offence is such that Sgt. Quilley is very concerned for the safety of the public, people involved in the drug trade either actively or in the past can often become targets of rival gangs or their own associates. Also the use of a Taxi to move and or sell illegal narcotics is not uncommon. Sgt. Quilley's recommendation is for council to up hold Mr. MOHSIN's chauffeur permit denial. Once Mr. MOHSIN's outstanding charges have been dealt with in court he may re-apply.

Sgt. Quilley