
*For the Fifth Meeting of the Hearing Committee
to be held on **Wednesday, December 2, 2009**
in Committee Room C-11, Tom Davies Square at **5:00 p.m.***

DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

HEARINGS

1. Report dated November 16, 2009 from the General Manager of Growth & Development regarding Appeal – Shuttle License Application **1 - 3**
(RECOMMENDATION PREPARED)

ADJOURNMENT (RECOMMENDATION PREPARED)

HEARING COMMITTEE MEMBERS

Councillor Jacques Barbeau, Chair
Councillor Claude Berthiaume
Councillor Evelyn Dutrisac
Councillor André Rivest
Councillor Russ Thompson

DISTRIBUTION

Mayor and Members of Council
Doug Nadorozny
Senior Management Team
Eric Labelle
Brian Gutjahr
Brian Bigger
Angie Haché

Angie Haché
City Clerk

Franca Bortolussi
Council Secretary

Request for Recommendation Hearing Committee



Type of Decision									
Meeting Date	December 2, 2009				Report Date	November 16, 2009			
Recommendation		Yes		No	Priority		High	<input checked="" type="checkbox"/>	Low
	Direction Only			<input checked="" type="checkbox"/>	Type of Meeting	<input checked="" type="checkbox"/>	Open		Closed

Report Title

Appeal - Shuttle License Application

Policy Implications + Budget Impact

This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified

There is no financial impact resulting from this report

Background attached

Recommendation

THAT the Hearing Committee uphold the decision of the Chief Tax Inspector concerning the denial of the shuttle license

Recommendation attached

Recommended by the Department Head

Bill Lautenbach
 Bill Lautenbach
 General Manager of Growth and Development

Recommended by the C.A.O.

Doug Nadorozny
 Doug Nadorozny
 Chief Administrative Officer

Date: November 16, 2009

Report Authored By

Bryan Gutjahr
Manager of Compliance & Enforcement Services

Division Review

BACKGROUND

By-law #2008-180 was passed by Council for the licensing, regulating and governing taxi, limousine and shuttle transportation in the City of Greater Sudbury.

Contained within the by-law is the provision that appoints the Manager of Compliance and Enforcement as the Chief Taxi Inspector. As well the by-law designates the Chief Taxi Inspector as the Issuer of Licenses pursuant to the by-law. All applications for licenses for taxi, limousine or shuttle transportation must be approved by the Chief Taxi Inspector.

When an application is received for a licence to own a taxi, limousine or shuttle, the Chief Taxi Inspector must ensure that all provisions of the by-law for licensing are met. If so, a license may be issued. However, in accordance with Section 6.12 there are circumstances where the Chief Taxi Inspector may deny a license.

On October 20, 2009, an application was submitted by John Desjardins, Sudbury, ON to obtain a shuttle owners license. The vehicle to be used in conjunction with the license was a 2006 Dodge Caravan, Plate #BHLP 586. At the time the applicant was advised that he would have to submit a shuttle tariff schedule to the Chief Taxi Inspector in accordance with Section 18.4 of the by-law. As well the vehicle being used as a shuttle would need to be inspected and approved by the Chief Taxi Inspector. On October 22, 2009, the applicant produced the above noted vehicle for inspection. During the inspection, it was noted that the said vehicle contained a taximeter, no tariff card and no "No Smoking Signs". As such the vehicle at that time did not pass inspection. According to Section 2.23 (a) a vehicle containing a taximeter is a "taxi cab" not a shuttle.

The Chief Taxi Inspector notified the applicant that he could not operate a shuttle with a taximeter in it or use a taximeter as a way to charge fares in a shuttle. He was advised to submit a proper tariff schedule and remove the taximeter before a license could be issued. He was given copies of other licensed shuttle owners tariff schedules to use as a template for his tariff schedule.

Shortly thereafter the applicant submitted a proposed shuttle tariff schedule which consisted of a photocopy of a City of Greater Sudbury taxi cab tariff schedule that is currently used by taxicab owners within the City. The only change was the City Logo was removed and the applicant inserted his information. When asked how the fares would be calculated without the use of a meter he advised the drivers could use a calculator to figure them out.

Shuttle tariff rates are separate charges collected or made to each individual or group of individuals upon entry to the vehicle. Clients of the shuttle industry must know what the rates are to be charged for travelling from Point A to Point B and this must be a flat rate as the distance is not metered.

Date: November 16, 2009

GROUND FOR DENIAL:

After reviewing Section 6.12 of the by-law the Chief Tax Inspector denied the application on two grounds;

First; the vehicle submitted for inspection contained a taximeter.

Section 6.12 (d) states:

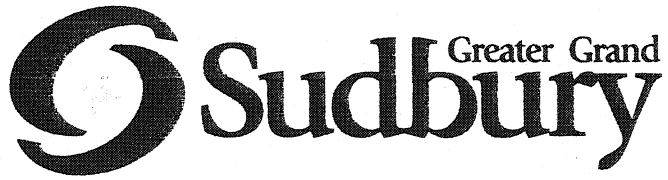
“there are reasonable grounds for belief that the vehicles in respect of which the license is required have not complied, or will not comply, with the provision of this By-law or any other law; or

Second; the tariff schedule submitted was not satisfactory as the charges (tariff) are not controlled and may be open to mistakes and dishonesty.

Section 6.12 (b) states:

“there are reasonable grounds for belief that the carrying on of the trade, business or occupation by the applicant has resulted, or will result, in a breach of this By-law or any other law;”

In accordance with Section 6.4 of the By-Law, the applicant was notified in writing that his application was denied. As well in accordance with Section 6.5, the applicant was made aware of this right to appeal.



SCHEDULE 'A'

Denial Letter

October 28, 2009

REGISTERED

Mr. John Desjardins
23 Eyre Street
Sudbury, ON P3C 4R5

Dear Mr. Desjardins:

Please be advised that your application dated October 20, 2009 for a:

Shuttle Licence

has been:

Denied

If your application has been denied, you may appeal by completing the enclosed "Appeal Request" Form and returning it to the City Clerk's Office located on the 2nd Floor, Tom Davies Square, at 200 Brady Street in Sudbury within fourteen (14) days of the date of this letter and the matter will be referred to the Hearing Committee of the City of Greater Sudbury. You will be advised by a written "Notice of Hearing" of the date and time scheduled for your appeal.

Yours truly,

COMPLIANCE & ENFORCEMENT SERVICES

A handwritten signature in black ink, appearing to read 'Bryan Gutjahr'.

Bryan Gutjahr,
Chief Taxi Inspector

/dt

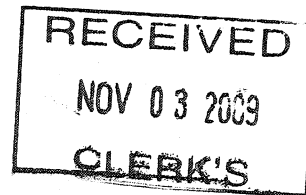
Enc. "Appeal Request"

PO BOX 5000 STN A
200 BRADY STREET
SUDBURY ON P3A 5P3

CP 5000 SUCC A
200, RUE BRADY
SUDBURY ON P3A 5P3

705.671.2489

www.greatersudbury.ca
www.grandsudbury.ca



SCHEDULE "B"

Appeal Request Form

Please complete this Appeal Request Form within fourteen (14) days of the date of letter of licence refusal.

Calculating time periods means: (1) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens; and (2) where time expires for appealing a licence refusal on a holiday, the "Request for an Appeal" may be filed the next day that is not a holiday. Holiday means Saturdays, Sundays and any statutory holiday

Your request should be mailed, delivered or faxed to:

City Clerk's Office, City of Greater Sudbury
2nd Floor, Tom Davies Square, 200 Brady Street
P.O. Box 5000 Stn A, Sudbury ON P3A 5P3
Telephone: (705) 671-2489, Facsimile: (705) 671-8118, TTY: (705) 688-3919

Please Print Clearly Using Dark Ink

I request a hearing to appeal the City of Greater Sudbury's refusal to grant me or my company a Shuttle Licence (insert licence type) refused on Oct 28 2009 (insert date of letter of refusal of original licence application).

Name: Desjardins John
Family/Last Name(s) First Name(s)
Company Name: City Taxi
Address: 745 Lorne St.
Street City Province Postal Code
Sudbury ON P3C 4R5
Telephone Number: (Home) (705)
(Work) (705) 673 9999
Fax Number: (Home) (705) 688 0938
(Work) ()

NOTES:

- 1. Please notify the City Clerk's Office at the City of Greater Sudbury in writing immediately if you change your address, telephone or fax number.
2. If you wish to have your hearing in the French Language, please contact the Clerk's Office no later than seven (7) Business Days before the Hearing date.
3. Applicants with disability needs should contact the Clerk's Office immediately upon receipt of this Notice.