



City of Santa Barbara
Police Department

Memorandum

DATE: August 23, 2012

TO: Fire and Police Commission

FROM: Captain Gil Torres, Administrative Services

SUBJECT: Gustavo Perez Valdes- Issuance of Taxi Driver Permit on Appeal

On April 26, 2012, Gustavo Perez Valdes submitted a Renewal Application for a taxicab driver permit to the Santa Barbara Police Department (SBPD). Mr. Valdes put a slash-mark in the arrest history section, and answered "No" to the question: "Are you currently on probation?" However, a background check revealed that in August 2010 Mr. Valdes plead no contest to the charge of 242 PC, Battery. As a result of this plea, Mr. Valdes was required to pay a fine and was placed on probation for a period of 36 months.

Based on the above discovery, Mr. Valdes's permit application was denied per Santa Barbara Municipal Code (SBMC) §5.29.190, Denial: "A public vehicle driver's permit shall not be issued to any person for whom any of the following is applicable: (K) "Has falsified or omitted material and relevant facts on the public vehicle driver's permit application." (Attachment 1)

On May 15, 2012, Mr. Valdes filed a letter of appeal, and on June 28, 2012, the matter was brought before the Fire and Police Commission. After considering all information presented, the Commission voted unanimously to uphold the denial.

On July 9, 2012, Richard Nyznyk, attorney for Mr. Valdes, filed a letter addressed to City Council, appealing the Commission's decision. In the letter Mr. Nyznyk explained that Mr. Valdes was in a rush at the time he submitted the application, and the omission of, and error in, the Arrest History section was simply an oversight due to the circumstances at the time of the submission.

Based on the contention that the error/omission was an oversight, SBPD staff approved a compromise in which the applicant's taxicab driver permit may be renewed for a one-year period. On August 7, 2012, Police Department staff requested that the appeal to Council be withdrawn, and that the matter be returned to the Fire and Police Commission at its next regularly-scheduled meeting (August 23, 2012).

RECOMMENDATION:

SBPD staff recommends that the Fire and Police Commission agree to allow Gustavo Perez Valdes to resubmit a renewal application to the Police Department, and upon a satisfactory background check, allow the issuance of a taxicab permit valid for one year.

/hp

(ATTACHMENT 1)

5.29.190 Denial.

A public vehicle driver's permit shall not be issued to any person for whom any of the following is applicable:

- A. Has been a licensed driver for less than 6 months in the United States.
- B. Does not possess a valid Class C driver's license issued by the State of California.
- C. Is less than twenty-one (21) years of age, unless the applicant possesses a valid Class B driver's license issued by the State of California and is 18 years or older.
- D. Is currently required to register pursuant to Section 290 of the California Penal Code or is required to register in another state or country as a sex offender in a manner comparable to Penal Code Section 290.
- E. Has been convicted of a crime involving moral turpitude, narcotics or dangerous drugs, unless a period of not less than three (3) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later.
- F. Has been convicted for driving a vehicle recklessly within the two (2) years immediately preceding application for a permit or renewal.
- G. Has been convicted of operating a vehicle while under the influence of alcohol or drugs two (2) or more times within seven (7) years immediately preceding the application for a permit or a renewal application, or one (1) time within one (1) year immediately preceding application for a permit or renewal.
- H. Has a history of chronic alcohol-related criminal convictions, as evidenced by three (3) or more public intoxication convictions within two (2) years immediately preceding an application for or renewal of permit.
- I. Has two (2) or more moving violation convictions within one (1) year immediately preceding an application for a permit, or three (3) moving violation convictions within one (1) year, or four (4) moving violation convictions within two (2) years for renewal. "Moving violation" conviction shall mean those violations set forth in State Vehicle Code Section 12810.
- J. Has been convicted of a felony or misdemeanor hit and run.
- K. Has falsified or omitted material and relevant facts on the public vehicle driver's permit application.
- L. Has failed to comply with all applicable provisions of Section 5.29.175 of this Chapter. (Ord. 5360, 2005; Ord. 4974, 1996; Ord. 4277, 1984; Ord. 4206, 1983.)