



City of Santa Barbara
Police Department

Memorandum

DATE: December 13, 2012

TO: Fire and Police Commission

FROM: Holly Perea, Police Technician

SUBJECT: Ahmed Shaqur - Appeal of Denial of Taxi Driver Permit

On October 9, 2012, Ahmed Shaqur submitted a New Driver Application for a taxicab driver permit to the Santa Barbara Police Department. The Arrest History section of the application states “You must **list all arrests and citations...**” and further warns that “Failure to **list all arrests and citations** may result in denial of your application.” (The bold font and underscore are listed here exactly as they appear on the application). The signature area of this section further admonishes the applicant: “Signature below indicates that applicant understands that if any information requested on this form is misrepresented, it may be grounds for denial of this permit application.”

Mr. Shaqur listed a single arrest for a “DUI” in October 2007 in the Arrest History section (Attachment 1). However, a review of the applicant’s information during the required background check revealed three additional convictions which Mr. Shaqur failed to disclose on the application:

- 1994: 12020(A) PC – Unlawful Carrying and Possession of Weapons
Sentence: 36 months’ probation and fine
- 1995: 487(A) PC - Grand Theft Sentence: 20 days jail, 3 years’ probation (2000: Re-arrested, probation violated.)
2004: 23103(A) VC – Reckless Driving: Highway
Sentence: 3 years’ probation and fine

In addition to the detailed instructions of the Arrest History section, the Police Technician’s office takes further steps to ensure that applicants do not unintentionally fail to fully complete the Arrest History section of the application. At the time an application is submitted, a staff member at the Police Department verbally verifies with the applicant, in person, that the information in the Arrest History section is true and complete as submitted. When Mr. Shaqur submitted his application, the Police Technician Assistant verbally asked him whether the information in the Arrest History section was complete. Mr. Shaqur verbally confirmed that the arrest history was complete as listed. The applicant’s verbal confirmation is noted on the application.

Mr. Shaqur also completed the “Applicant Acknowledgment” page of the application. This page requires applicants to read each section of the page and place initials by each as proof of the applicant’s understanding of the information provided. Mr. Shaqur

initialed each section of the page, indicating his acknowledgement and understanding of each, including the three sections which pertain to this particular circumstance:

“I understand that I should not submit my application to the Police Department if I am uncertain about ANY information listed herein, or if any information is incomplete. I understand that it is my responsibility to do all research necessary to ensure that my answers are complete and accurate.”

“I understand that my application may be processed immediately upon submission to the Police Department, and that once it is submitted, if any information is found by Police Department staff to be missing, incomplete, misrepresented, or falsified, the application may be denied.”

And: “By submitting this application to the Police Department, I confirm that I have included all information requested in all sections of the application form, that I have done all research necessary to support the information listed, and that I am confident that the information I have provided is complete and accurate.” (See Attachment 2)

Based on the discovery of multiple undisclosed convictions during the background check, Mr. Shaqur’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." It should be noted that the above section does not use the discretionary term “may not be issued,” but instead states that a “permit shall not be issued,” thereby requiring the Chief of Police to deny the permit under the above-listed circumstances. (See Attachment 3.)

Mr. Shaqur was given written notice of this denial on November 13, 2012. On November 27, 2012, Mr. Shaqur filed a letter of appeal with the City Clerk’s office per the requirements of **SBMC §5.29.250 Appeal Procedure**. (See Attachments 4 & 5.)

In his appeal letter Mr. Shaqur asserts, in part, that a “clerk at the City Police Department” told him that his application could be denied if he “had more than one arrest in the five (5) year period preceding the date of [his] Application (sic).” Despite this claim, neither the Police Technician nor the Police Technician Assistant advised Mr. Shaqur of a 5-year limit for arrests. To the contrary, both staff members frequently advise applicants that an applicant’s entire arrest history is required regardless of when an arrest or citation occurred. Furthermore, a Grounds for Denial page is included in each application, listing the time frames under which specific charges and citations may be considered for denial of the application. Mr. Shaqur signed the Grounds for Denial page, indicating he had read it. (See Attachment 6.) It should be noted that none of the grounds for denial of a taxicab application involve a 5-year period of relevancy.

Since the Arrest History section of the Application specifically requires the applicant to list all previous arrests and to sign a declaration attesting to that very fact, Mr. Shaqur was well aware he could be denied a permit for not listing a true and accurate history of all his arrests, regardless of any alleged conversation from an unknown clerk at the City Police Department. Therefore, by Mr. Shaqur signing this declaration he assents to all the

applications terms. The declaration on the Application that Mr. Shakur signed as well as the Municipal Code clearly notifies the applicant that any type of misrepresentation in the Arrest History section--for whatever reason--provides grounds for denial of the application. This is all within the purview and discretion of the Fire and Police Commission.

RECOMMENDATION:

It is the recommendation of the Santa Barbara Police Department that the Fire and Police Commission uphold the Police Department's decision to deny this application.

ATTACHMENTS:

1. Arrest History signed by Mr. Shaqur
2. Applicant Acknowledgment signed by Mr. Shaqur
3. SBMC §5.29.190 Denial
4. Letter of appeal
5. SBMC §5.29.250 Appeal Procedure
6. Grounds for Denial signed by Mr. Shaqur

CITY OF SANTA BARBARA

ARREST HISTORY

(Pursuant to Santa Barbara Municipal Code, Chapter 5.29)

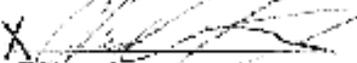
You must **list all arrests and citations** regardless of the outcome or adjudication. Attach a separate sheet, if necessary. Note: If you were cited for any violations while in a taxicab, they must be listed below, even if you were not arrested. If you have never been arrested or cited, write "NONE" in the space below. Failure to **list all arrests and citations** may result in denial of your application.

Date	Place (City and State)	Reason (Violation)
10/15/07	ANAHUEN, CA	DUI

Are you currently on:

On probation?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	Charges: <u>DUI</u>
On parole?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	Charges: <u> </u>
Required to register pursuant to Penal Code section 290 (sex registrant)? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			

Signature below indicates the applicant understands that if any information requested on this form is misrepresented, it may be grounds for denial of this permit application.

X 
Signature (Permit Applicant)

10/9/2012
Date

The Police Technician verbally verified with applicant that:

applicant's answer is "none" OR applicant listed complete & citation/arrest history

Police Technician Initials Date: 10/12

CITY OF SANTA BARBARA

**APPLICANT ACKNOWLEDGEMENT
APPLICATION COMPLETION & PROCESS**

Read each section below, then initial where indicated to confirm your acknowledgment and understanding of each section:

I understand that I should not submit my application to the Police Department if I am uncertain about ANY information listed herein, or if any information is incomplete. I understand that it is my responsibility to do all research necessary to ensure that my answers are complete and accurate.

Initials: A.S.

I understand that my application may be processed immediately upon submission to the Police Department, and that once it is submitted, if any information is found by Police Department staff to be missing, incomplete, misrepresented, or falsified, the application may be denied.

Initials: A.S.

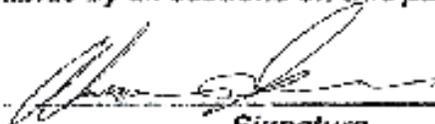
I understand that the Police Department, at the discretion of Police Department staff, may accept this application without the immediate submission of the following supplemental items: drug test results; alcohol test results; and/or photographs. I further understand that although the initial application process and background check may begin immediately after submission of the application without these items, the application will not be reviewed by the Chief's Designee until all required supplemental items are submitted to the Police Department. If the supporting items are not submitted within 12 months of the date of submission of the application, the application will become void and a new application must be submitted.

Initials: A.S.

By submitting this application to the Police Department, I confirm that I have included all information requested in all sections of the application form, that I have done all research necessary to support the information listed, and that I am confident that the information I have provided is complete and accurate.

Initials: A.S.

By signing below I confirm that I have thoroughly read, I understand, and I agree to abide by all sections on this page.


Signature

10-09-2017
Date

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.)

Ahmed Shaqur

5404 Hanna Drive, Santa Barbara, CA 93111

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2012 NOV 28 AM 11: 29

November 27, 2012

CITY OF SANTA BARBARA
CITY CLERKRe: Appeal of Denial of Application for Taxicab Driver's permit

I am appealing the denial of my Application for Taxicab Driver's Permit (the "Application"). Written notice of said denial was provided to me by letter dated November 13, 2012. I am appealing the denial of my Application because I did not knowingly falsify or omit any material and/or relevant facts in my Application. English is my second language and I am not fluent. As this is the case, I have asked a friend of mine to assist with me preparing this appeal letter.

When I picked up the Application, I asked the clerk at the City Police Department about the question pertaining to my arrest history. She explained to me that the Application could be denied if I had more than one arrest in the five (5) year period preceding my Application. I incorrectly interpreted this to mean that I was only required to list any arrests that occurred in the five (5) year period preceding the date of my Application. I was not trying to be dishonest but due to the language barrier and my misunderstanding of the information given to me by the city clerk, I did not include any information outside of the five-year period.

As disclosed in my Application, I did have a DUI arrest in late 2007 but the actual judgment for the DUI was entered in 2008. There was also a 2000 (not sure about the exact date) citation but it was dismissed and, for the reasons stated above, I did not include that information in my Application.

I do not have a firm recollection of anything else that might be in my driving and/or arrest history so I am in the process of requesting that information and having a personal background check performed so that I can disclose all information that is required. I respectfully request that the denial of my Application be reversed and that I be allowed to file an amended Application including all requested driving and arrest history. Thank you for your time and consideration.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

Dated this 27th day of November, 2012

 AHMED SHAQUR

5.29.250 Appeal Procedure.

A. Appeals to the Board of Fire and Police Commissioners

1. Any decision of the Chief of Police denying a permit, or denying an amendment to a permit, or imposing a suspension or revocation of any owner's or driver's permit shall not become final until fifteen (15) days after the date of transmittal of the written notice to the person affected by such decision, during which period the party to the action may appeal the decision in the manner provided herein at any time prior to the expiration date of the fifteen (15) day period. If no appeal is taken before the expiration of the fifteen (15) day period, the decision of the Chief of Police shall be final.

2. The appeal of any decision shall be in writing signed by the party to the action briefly setting forth the reasons why such decision is not proper, stating an address at which the appellant will receive notices, and filed with the Clerk of the City.

3. Upon filing an appeal, the party to the action shall be entitled to a hearing by the Board of Fire and Police Commissioners at the next regular meeting.

4. The appellant or appellant's representative shall have the right to present his or her case in person.

5. The Board of Fire and Police Commissioners shall consider the case record as well as any statements offered by interested parties. The hearing will be conducted according to administrative rules relating to evidence and witnesses as adopted by the Commission.

6. If the Board of Fire and Police Commissioners refuses to issue, amend or restore a license or an owner's permit, the party to the action or such party's agent shall not file a new application within three hundred sixty five (365) days from the date of final action by the Board of Fire and Police Commissioners.

7. If the Board of Fire and Police Commissioners suspends an owner's permit or a license, the Chief of Police shall determine a period of suspension of not more than thirty (30) days, which is in accordance with the schedule of penalties developed by the Chief of Police.

8. If the Board of Fire and Police Commissioners' action is to grant or restore a certificate or a license, the Commission shall direct the Chief of Police to issue or restore the certificate or license.

B. Appeals to the City Council

1. Appeals to the City Council from the decision of the Board of Fire and Police Commissioners shall be made pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5360, 2005; Ord. 5136, 1999; Ord. 4206, 1983.)

CITY OF SANTA BARBARA

REFUND POLICY - TAXICAB DRIVER PERMIT

(Pursuant to Santa Barbara Municipal Code, Chapter 5.29)

NOTICE TO APPLICANT:

Your application fee will not be refunded: **IF YOU ARE DENIED A TAXICAB DRIVER PERMIT; IF YOU WITHDRAW YOUR APPLICATION; OR IF YOU FAIL TO COMPLETE THE PERMIT PROCESS.**

Please read the Grounds for Denial and sign this acknowledgment before you complete the application. Complete language of Grounds for Denial can be found in Santa Barbara Municipal Code, Chapter 5.29, Section 190.

GROUND(S) FOR DENIAL (condensed):

1. Less than six (6) months driving experience in the United States.
2. No California driver's license.
3. Less than 21 years of age (unless you have a valid Class B California driver's license).
4. 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.
5. You have been convicted within the past three (3) years of a crime involving moral turpitude, narcotics or dangerous drugs.*
6. You have been convicted within the past two (2) years of reckless driving immediately preceding application for permit or renewal.
7. You have 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 application for a permit or renewal.
8. Has a history of chronic alcohol-related, criminal convictions, as evidenced by three (3) public intoxication convictions or more within two (2) years immediately preceding an application or renewal for permit.
9. 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.
10. You have one or more citations or warrants outstanding which, in the opinion of the Police Department Investigator, may result in a conviction of an offense that would normally result in permit denial or permit revocation.
11. Has been convicted of a felony or misdemeanor hit and run.
12. Failure to test negative for controlled substances and alcohol as per state and federal regulations.
13. Failure to complete the application process.
14. Making false statements on the application.

*Clarification to Number 5: "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."

Signature below acknowledges the applicant has read the above and understands the fee will not be refunded.

Signature

Date

10/9/2012