

Sample 2 – Applicant’s Affidavit

Magistrates Court OF QUEENSLAND

Registry: Brisbane
Number: M1234 of 2012

IN THE MATTER OF
section 87 of the Transport Operations
(Road Use Management) Act 1995

AFFIDAVIT OF BOSCA ALBERTO TRAN

BOSCA ALBERTO TRAN of 26 Little Street, Browns Plains in the State of Queensland, Landscape Gardener, states on oath:

1. I am the Applicant in this matter.
2. I am 31 years of age, married with 3 children that I support. My children are aged 11, 7 and 5.
3. My wife works one day per week at Cindy Kindy, Buranda and earns an average of about \$100 a week clear. She has tunnel vision and is not able to get a driver’s licence.
4. I am the holder of Queensland driver licence number 67891234 (Type O, Class C) which expires on 1 September 2012. Exhibit BAT1 is a copy of my licence.
5. I work as a landscape gardener for Beautiful Gardens, at 273 Logan Road, Buranda. I have been with that firm since I left school in 1998, and I’m now one of the most experienced employees.
6. Most of my work is not done at Buranda. My work entails looking after gardens that are already in existence and developing new gardens, including basic maintenance like lawn mowing, weeding, building retaining walls, rockeries, planting small and large plants etc. Beautiful Gardens has a number of regular clients as well as one-off jobs. As part of my daily duties, I am required to travel to the homes or business premises of these clients to do my work. I usually start the day at Buranda, drive one of the work trucks or utes to and from wherever I’m working on the day (as I need to take heavy equipment with me to and from the job site) and then come back to Buranda. Sometimes if the job goes for more than one day, to save time I take the work ute home and drive directly from my home to the work site the next day.

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Signed: _____ Taken by: _____

AFFIDAVIT OF BOSCA ALBERTO TRAN
Filed on behalf of the Applicant
Form 46 Rule 431

Bosca Alberto Tran
26 Little Street
BROWNS PLAINS QLD 4118
Tel: xxxx xxxx

Sample 2 – Applicant’s Affidavit continued

7. Sometimes other employees come with me from Buranda – it depends how big the job is and whether more than one person is needed. Often someone else drives as well and I am left to finish the job on my own.
8. My normal work hours are Mondays to Fridays from 6am to 3pm and on Saturdays from 6am to 11am. It is a condition of my employment that I am available to work at least one Sunday every two months from 6am to whenever the job finishes. I usually work every 4th Sunday. I rely on the extra money I get for this work.
9. I have spoken to my employer Roger Minty. Roger has said that if I don’t have a licence and can’t drive, even though he would like to keep me, he cannot provide another employee to drive me around to and from the various sites and therefore unfortunately there would not be a job for me at Beautiful Gardens.
10. I also need my licence to drive to and from work as there is no public transport that I could reasonably take to get to and from my work place at Buranda and my wife is unable to get a licence. Nor is there anyone else who could drive me to and from work and I cannot afford taxis. By car it usually takes me about an hour to drive to/from work at Buranda. As I mentioned, sometimes I take the work vehicle home from the site and drive back in it the next day. While there is a train station at Buranda, my work is about a 20 minute walk from that station. The nearest train station to me is not walking distance, and it doesn’t go through Buranda. I would need to catch a bus to the station, a train into the City and then a train back out. The trains and buses don’t start early enough for me to do this and be at work by 7am and certainly not at 6am. Nor could I carry the necessary equipment by public transport. It would also take me about 3 hours each way to catch public transport. My wife works at Buranda one day each week. She took the job there because I already worked at Buranda and could drive her to and from work. She would have the same problems catching public transport, so it would not be feasible for her to continue working. The \$100 she earns is necessary for us to keep to our commitments, with a small “safety net”.
11. So that I can do my job, I would need a licence to be able to leave home at about 4:45am and arrive home at about 5:30pm, earlier on Saturdays. I would also need a licence to be able to leave home at about 5am and arrive home at say 4pm on the Sundays that I work. I would need to be able to drive my car and the work vehicles.

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Signed:

Taken by:

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12. Four years ago my wife and I bought a house and we have a mortgage of \$100,000 owing. I am currently taking home about \$650 a week (excluding the money I get for when I work on Sundays) and my wife about \$100 per week. My wife also gets approximately \$150 a week family benefits from Centrelink.

My major weekly financial commitments are approximately as follows:

a) mortgage repayments	\$300.00
b) personal loan for car	\$100.00
c) petrol	\$ 50.00
d) electricity	\$ 50.00
e) telephone (incl mobiles)	\$ 20.00
f) food	\$250.00
Total	\$770.00

There are also other expenses such as doctors’ visits, medication, school expenses, clothing, registration, car repairs etc. We put aside as much as we can from the Centrelink benefits and my Sunday earnings to pay for these. It is still a pretty tight exercise.

13. Landscaping is the only work I know. I started doing it as a school based apprenticeship, and have been doing it ever since. I have worked very hard for Beautiful Gardens and I know that they would be happy to keep me on as long as I want to stay – provided I can do the job. Without a licence, I can’t do my job. While there are other jobs going in landscaping, all the ones I have seen advertised require a driver’s licence. There may be other jobs I could get, but I would earn a lot less as I don’t have experience in any other field. I need to earn at least what I’m getting now to be able to pay the mortgage. If we had to sell the house and rent, we would have to pay a lot more each week and we just couldn’t afford it.
14. I got caught for drink driving on the way home from a night out playing darts. I play darts once a week and I usually get a lift with Bob, another team member. On the evening in question Bob was sick so I drove. I was counting my drinks so that I would be ok to legally drive home. I arrived at about 7:30 and had three standard beers between 7:30 and 10:30 when the game finished. Our team won and the boys

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Signed:

Taken by:

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persuaded me to stay after the game and have “one for the road”. Stupidly I agreed and had another drink – and then a couple more. My wife rang wondering where I was so without thinking further I quickly finished my drink and drove home. There was a “booze bus” on the way home and I was one of the drivers pulled over and tested. I was found to be over the limit.

15. I regret having driven while over the legal limit. Had I left when I had originally intended, I am sure I would have been under the limit, having carefully counted my alcohol consumption. And if I had considered things properly I would have left the car and not have driven. I would not intentionally endanger myself or other road users, and previously I have never knowingly driven a vehicle when over the legal limit.
16. I got my licence on the very first day I could when I was 17 and I have been driving for 14 years. In that time I have never intentionally and would never put any other person’s life or my own in danger. I am not a heavy drinker, and am often the “designated driver” at social functions due to my habit of drinking ginger ale or tea when I am out and intending to drive home. I do not have any previous convictions for drink driving and have a good traffic history (one speeding conviction for driving 10 kms over the speed limit when I was 25). Exhibit BT1 is a copy of my traffic history which I obtained from Department of Transport and Main Roads. Should the court grant my application I will ensure that I do not drive if I have recently consumed alcohol or have any suspicion that I could be anywhere near the limit.
17. If the court refuses my application for a restricted licence I would lose my job and my wife would have to resign. Any Centrelink benefits we would get would not be sufficient to pay our regular commitments, let alone any unexpected expenses, and I believe we would lose our house. This would cause extreme hardship for me and my family.
18. All the facts and circumstances above deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

Sworn by Bosca Alberto Tran on the day of 2012, at in the presence of:

Deponent

A Justice of the Peace/Solicitor