

File

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. 0704-AV-77-T

RE: APPLICATION OF STAMFORD YELLOW CAB, INC. D.B.A.
EVEREADY STAMFORD TO OPERATE TWELVE (12) MOTOR
VEHICLES IN TAXICAB SERVICE WITHIN AND TO AND FROM
STAMFORD TO ALL POINTS IN CONNECTICUT.

FINAL DECISION

March 17, 2008

I. INTRODUCTION

A. Applicant's Proposal

By application filed on April 19, 2007, with the Department of Transportation (hereinafter "Department"), pursuant to Section 13b-97 of the Connecticut General Statutes as amended, Stamford Yellow Cab, Inc. d.b.a. Eveready Stamford (hereinafter "applicant"), seeks authorization to operate twelve (12) additional motor vehicles in taxicab service within and to and from Stamford to all points in Connecticut.

B. Hearing Held

Pursuant to Section 13b-97(a) of the Connecticut General Statutes, as amended, a public hearing on this application was held at the administrative offices of the Department in Newington, Connecticut on February 7, 14, and 21, 2008.

Notice of the application and of the hearing to be held thereon was given to the applicant and to such other parties as required by Section 13b-97(a) of the Connecticut General Statutes, as amended. Legal notice to the public was given by publication in the Stamford Advocate, a newspaper having circulation in the area of concern.

The hearing on this matter was conducted by a hearing officer, designated by the Commissioner of Transportation, pursuant to Connecticut General Statutes Section 13b-17.

C. Application Amendment

The applicant sent a letter dated September 5, 2007 to amend its application to reduce the number of taxicabs requested from twenty (20) to twelve (12) additional vehicles.

D. Appearances

Vito Bochicchio appeared on behalf of Stamford Yellow Cab, Inc. d.b.a. Eveready Stamford. The applicant was represented by Eugene Kimmel, Esq. with a mailing address of 9 Morgan Avenue, P.O. Box 2014, Norwalk, Connecticut 06852-2013.

Sheldon Lubin, a Department staff member, appeared at the hearing.

E. Administrative Notice

The applicant requested that the hearing officer take administrative notice of the following cases:

1. Docket Number 0411-AV-09-T/ Reconsideration of Patrick E. Foltz d.b.a. Port City Taxi
2. Docket Number 9906-N-20-T/ Fairfield County Transportation, LLC.
3. Docket Number 0305-N-05-T/ U.S.A. Taxi & Limousine
4. Docket Number 0311-N-27-T/ Independent Taxi Cab Co., Inc.
5. Docket Number 0610-N-11-T/ Independent Taxi Cab Co., Inc.
6. Docket Number 0604-AV-07-T/ USA Taxi & Limousine of Stamford
7. Docket Number 0006-AV-11-T/ Norwalk Taxi, Inc. d.b.a. Norwalk Taxi
8. Docket Number 9405-N-25-T/ Vito Bochicchio, Jr. & David Carino d.b.a. Eveready Cab Company of Stamford
9. Docket Number 9211-AS-27-T/ Executive Cab, Inc.
10. Docket Number 9806-AS-14-T/ Norwich Taxi, LLC

Administrative Notice was also taken of the colors of the taxicabs operated by the four companies in Stamford.

1. Stamford Yellow Cab has a dark blue car.
2. Stamford Taxi has a black car.
3. USA Taxi has a white car.
4. Independent Taxi has a green and white car.

II. FINDINGS OF FACT

1. The applicant currently operates thirty (30) of the one hundred six (106) taxicab certificates in Stamford. In addition to the applicant, USA Taxi operates fifteen (15) taxicabs, Independent Taxi operates six (6) taxicabs and Stamford Taxi operates fifty-five (55) taxicabs in Stamford.

2. The applicant has cash in the bank totaling \$111,734.
3. The cost to insure each additional taxicab per year is \$5,200.

4. The applicant has a line of credit in the amount of \$200,000 with the Norwalk Bank and Trust.
5. The applicant will utilize owner operators to drive the additional vehicles granted in this application. The applicant has received twenty-two applications from drivers seeking to drive for the company.
6. Vito and Paul Bochicchio submitted criminal record checks with no convictions.
7. Dawn Roman uses taxicabs about three times per week. She testified that she mainly uses Stamford Taxi and waits twenty to thirty minutes for service.
8. Sandra Vasquez uses taxicabs about two times a week. She calls only Stamford Taxi and Eveready Taxi. She usually waits twenty to forty minutes to get service. She was not aware of the other two taxicab companies in Stamford.
9. Christian Moncayo, a Stamford resident testified that he uses taxicabs three to four times a month from the Stamford Train Station to his home late at night. He does not call any particular company but instead takes taxis that wait at the train station. On occasion he finds no taxicabs waiting for passengers at the train station.
10. Yeeny Calle, a Stamford real estate agent, takes taxicabs two to three times a week. She uses whichever taxicab service comes first. Her main complaint is that the companies take longer to arrive then they tell her it will take. She knows of the four taxicab companies in Stamford.
11. Patricia Hargrove takes taxicabs several times a week. She uses Eveready and Stamford Taxi. She typically waits thirty to forty minutes for a taxicab.
12. Carla Chabez uses USA Taxi and Eveready. Her main complaint is that the cab companies do not show up when they say they will and they are at least twenty to thirty minutes late. She has had difficulty getting taxicabs at the Stamford train station.
13. Julio Moncayo uses taxicabs once a week to go to the grocery store. It can take twenty to twenty-five minutes or more to get a taxicab. He uses USA Taxi and Stamford Taxi.
14. Domonique Jenpierre and Gara Marseille are bellmen at the Hilton Hotel. They typically call Stamford Taxi and Stamford Yellow Cab when patrons need a taxi. It usually takes at least twenty-five minutes to get a taxicab but it could be longer. They both agree that more taxicabs are needed in Stamford to service the hotel patrons.

15. Ethel McClain and Susan Batts use Eveready and Stamford Taxi. They both feel there is a need for additional taxicabs because they have experienced waiting times of thirty minutes or more.

16. Keith Batts uses taxicabs four to five times a week. He uses Eveready and Stamford Taxi. He experiences waiting times of a half hour or more. He has also experienced having to wait at the Stamford Train Station due to the lack of taxicabs.

17. Gloria Penafiel is an occasional taxicab user. It usually takes her twenty to thirty minutes to get a cab. She uses Stamford Taxi.

18. Estaban Manco uses taxicabs in Stamford two times per week. He is aware of the four companies but calls Eveready and USA Taxi and takes the first taxi to arrive. He is told they will show up in ten to fifteen minutes but usually they arrive thirty minutes late.

19. Angela Batts uses five to six taxicabs per week. She uses Eveready and Stamford Taxi. She has called USA Taxi and no one answered the telephone. She calls taxicabs forty-five minutes in advance and sometimes they do not show up during that time. Two to three times a week the taxicabs do not show at all when she calls them.

20. Chelsea Squire takes taxicabs a couple of times per week to work. She uses Eveready and Stamford Taxi. She has had difficulty getting a taxi at the train station. She tries to call forty-five minutes before she needs to be at a certain location. She is aware of the other two taxicab companies in Stamford but has not used their services.

21. Taxicab companies in Stamford do not give accurate pick up times to their patrons.

22. Mr. Gerard Vilsaint, owner of Independent Taxi in Stamford, does not oppose this application but is concerned that Mr. Bochicchio had opposed his past two applications based on the lack of need for additional taxicabs in Stamford and is now applying for additional vehicles for his own company.

23. Mr. Franciso Rendon, owner of USA Taxi, testified that he does not oppose this application because there is a need for additional taxicabs in Stamford but he believes that any grant of authority should be divided between the taxicab companies in Stamford. USA Taxi cannot handle all of the daily calls it receives for service.

24. The applicant's drivers pay approximately \$360 per week to lease a taxicab.

25. Mr. Bochicchio testified in Docket Number 0610-N-11-T, Independent Taxi Company, on December 21, 2006 that Stamford had more than enough taxicabs to service the community.

26. Mr. Bochicchio opposed the application of Independent Taxi, Docket Number 0311-N-27-T, in 2006 based on the lack of need for additional taxicabs in Stamford.

27. Mr. Bochicchio opposed the application of USA Taxi & Limousine of Stamford, Docket Number 0305-N-05-T, in 2004 based on the lack of need for additional taxicabs in Stamford when that company sought to operate a new taxicab fleet in Stamford.

28. Between December 31, 2007 and January 20, 2008, the applicant could not service an average of 198 daily requests for taxicab service.

29. On a daily basis 62,000 commuters come into and go out of Stamford.

30. John Padilla testified in support of the application. There is no para transit transportation in the evenings, on Saturday after 2:30 P.M. and on Sundays. He uses Eveready taxicabs once a month. Several of the members of the Stamford area Federation for the Blind have told him they have had to wait more than thirty minutes for a taxicab.

31. Jessie Davis testified that she goes to Stamford two to three times a week. She usually uses a taxicab from the train station and has to wait twenty-five to thirty minutes to get service. This is about the same amount of time she waits to get a ride back to the train station. She uses Eveready or Stamford Taxi.

32. Alex Hargrove travels to Stamford several times a week for therapy. He takes the train and then waits for a taxicab to get to the veterans hospital. He usually waits about thirty minutes for a taxicab at the station. On the return trips to the train station, he has to wait longer. He uses Stamford Taxi and Eveready.

33. Cornelius Keitt takes the train to Stamford to get to his job at the Stop & Shop two to three times a week. He usually waits at the train station about thirty minutes to get a ride.

34. Laura Sanchez uses taxicabs several times a month. Sometimes she needs to wait more than thirty minutes for a taxicab. She calls USA Taxi, Eveready and Stamford Taxi.

35. Paola Guerrero testified that she called a taxicab from the hospital and it never arrived. She takes taxicabs two to four times a month and it usually takes twenty-five to thirty minutes for her to get service. She uses USA, Eveready and Stamford Taxi.

36. The applicant's trip sheets show that during the week of January 14 to January 20, 2008, the applicant's vehicles averaged seventeen taxicab trips each per day. During this time period the applicant utilized all of its vehicles.

III. DEPARTMENT ANALYSIS

The Department of Transportation has jurisdiction over common carriers, which includes each person, association, limited liability company or corporation owning or operating a taxicab in the State of Connecticut in accordance with Connecticut General Statutes Section 13b-96, as amended. The Department is authorized to prescribe regulations with respect to fares, service, operation and equipment, as it deems necessary for the convenience, protection and safety of the passengers and the public.

Pursuant to Section 13b-97(a), as amended, any person who applies for authority to operate a taxicab shall obtain from the Department a certificate of public convenience and necessity certifying that the public's convenience and necessity requires the operation of a taxicab or taxicabs for the transportation of passengers. No certificate shall be issued unless the Department finds that the person is suitable to operate a taxicab service. In so doing, the department must take into consideration any convictions of the applicant under federal, state or local laws relative to safety, motor vehicle or criminal violations, the number of taxicabs to be operated under the certificate, the adequacy of the applicant's financial resources to operate the service, the adequacy of insurance coverage and safety equipment and the availability of qualified operators.

With regard to the drivers the applicant will be hiring, the applicant submitted a package of twenty-two applications that it received from prospective drivers. With this number of applicants, there are more than enough drivers to operate the twelve (12) vehicles the applicant wants to place into operation.

The applicant is seeking to operate twelve vehicles (12) which it should have no problem doing given its experience in the taxicab business. The applicant has proven that it can insure these vehicles and it will be utilizing owner operators who will provide the taxicabs to be utilized.

In support of financial wherewithal to operate the proposed serviced the applicant presented evidence that it has a line of credit for \$200,000. On January 22, 2008, the applicant had a bank balance of \$111,732.96. Each vehicle will cost the applicant \$5,200 to insure. The applicant will charge a weekly lease fee of \$360 for each vehicle. The owner operators the applicant will be using will provide their own vehicle and cover many of the costs associated with the taxicab's operation. Based on the evidence presented, the applicant has the requisite financial suitability to operate the proposed service.

To receive a grant of authority, the applicant has the burden of proving that public convenience and necessity requires the grant of taxicab authority. To prove this point, the applicant submitted several letters of support from political officials and residents in the Stamford area. While the Department appreciates the time the authors took in drafting the letters, such letters of support, without the actual author's testimony, are of extremely limited weight in the determination process due to the inability to cross-examine the authors.

The applicant also submitted a study by the SoNo Group, Inc. which it produced to show need for the expanded service. The study contained evidence of the requests for service that the company was unable to address from December 31, 2007 to January 20, 2008 which were recorded by the dispatchers. The results of these records reflect that during this period, the company could not service from one hundred two (102) to two hundred seventy-three (273) taxicab requests daily, for an average of one hundred ninety-eight (198) calls per day. The applicant was requested to produce trip sheets for all of its taxicabs for any week of its choice in close proximity to the close of hearing. The applicant selected the week of January 14 to January 20, 2008. The applicant's data reflects that it performs seventeen trips per vehicle per day. Given that the applicant performs an average of seventeen trips per day per taxicab, the applicant could perform these lost one hundred ninety-eight (198) calls per day with twelve (12) taxicabs the applicant has requested in this application.

There are four taxicab companies currently operating in Stamford. The owner of Independent Taxi, Mr. Gerard Vilsaint, and USA Taxicab, Mr. Fransisco Rendon, both appeared at the hearing to show support for granting additional taxicabs in Stamford. The applicant also submitted a letter from Mark Necatera of Stamford Taxi which supports the need for additional vehicles in Stamford. Mr. Necatera and Mr. Rendon believe that the Department should determine the need for taxicab service and then divide any grant of additional taxicabs among the existing taxicab companies in the area. Mr. Bochicchio made this exact same argument in Mr. Rendon's hearing in Docket Number 0604-AV-07-T.

This proposal contradicts the statute as it is written. Connecticut General Statutes Section 13b-97 requires the Department to grant authority where an applicant has proven need among the other criteria. The first applicant that proves need and the other criteria through the hearing process will reap the benefits of applying first and presenting a successful case. The other taxicab companies in the area all have that same opportunity.

The applicant submitted numerous witnesses in support of its application. The witnesses testified that they themselves have experienced difficulty getting taxicab service in Stamford. The witnesses commonly experienced waiting times in excess of twenty-five or thirty minutes. Several of the witnesses were aware of the four taxicab companies in Stamford, but most witnesses have used Eveready, Stamford Taxi or USA Taxi. The complaints involved long waits for taxicab service at all locations in Stamford including the Stamford Train Station. There was also testimony concerning the limited para transit transportation which forces residents to utilize taxicab service when it is not available. Based on the evidence presented, the applicant has proven

that public convenience and necessity requires a grant of this application.

In support of suitability, the applicant provided the requisite criminal conviction history forms dated January 19, 2007 for Vito Bochicchio and Paul Bochicchio which show no criminal convictions. The applicant has been in business for many years with only one citation hearing which was settled by stipulation.

Mr. Alfredo Gerard Vilsaint, owner of Independent Taxi, testified that Mr. Bochicchio opposed his application for taxicabs in Stamford and then filed his own application for additional taxicabs shortly thereafter. Mr. Vilsaint stated that he did not know how the Department could allow the applicant to be granted taxicabs in Stamford after his prior testimony. The Department's records reflect that Mr. Bochicchio did oppose Mr. Vilsaint's application based on the lack of need for additional taxicabs in Stamford on December 21, 2006 and then filed his own application, four months later, for additional vehicles in Stamford on April 19, 2007.

At the Independent Taxi hearing, Docket Number 0610-N-11-T, Mr. Bochicchio testified that the current number of taxicabs in Stamford were more than enough to satisfy the need for taxicab service. Four months later, Mr. Bochicchio applied to the Department to increase his own taxicab fleet size in Stamford by twenty (20) vehicles. Mr. Bochicchio also opposed Independent Taxi's original application based on the lack of need for additional taxicabs in Stamford in Docket Number 0311-N-27-T which was denied on April 6, 2006 and USA Taxi's application in Docket Number 0305-N-05-T in 2004 based on the lack of need for additional taxicabs in Stamford.

Mr. Bochicchio testified in this hearing that he did not oppose Independent Taxi's application on need but rather that he only opposed the application based on suitability grounds. This statement is simply untrue. Mr. Bochicchio vehemently opposed both applications filed by Independent Taxi on the basis that there was no need for additional taxicabs in Stamford. Mr. Bochicchio's denial of his earlier testimony in these two hearings is very disturbing.

The Department has long held that operators cannot testify against an application based on the lack of need for additional vehicles on one hand and then subsequently testify in support of additional vehicles for their own company. To allow an applicant to be rewarded for proffering false testimony makes a mockery of the hearing process and will not be tolerated. The testimony in these hearings is under oath and the Department expects witnesses to testify truthfully.

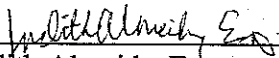
Mr. Bochicchio's conflicting testimony in the two Independent Taxi hearings in Stamford in the past two years has brought into question his credibility and whether the applicant is suitable to operate additional taxicabs. Due to the conflicting nature of Mr. Bochicchio's testimony in this hearing with the testimony he gave only one year ago in the last Independent Taxi case, coupled with his failure to acknowledge the nature of his earlier testimony, leaves the Department unable to deem the applicant suitable to be granted additional taxicabs in Stamford. Therefore, this application must be denied on failure to prove adequate suitability.

IV. CONCLUSION

Based upon the above and pursuant to Connecticut General Statutes Section 13b-97, as amended, the application of Stamford Yellow Cab d.b.a Eveready Stamford is hereby denied.

Dated at Newington, Connecticut, on this 17th day of March, 2008.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Judith Almeida, Esq.
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