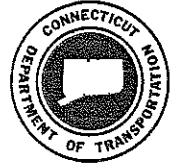


File

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546

Phone:

(860) 594-2875

DOCKET NO. 0809-N-154-L

RE: APPLICATION OF ROSE CITY LIVERY, LLC TO OPERATE TWO (2) MOTOR VEHICLES HAVING A SEATING CAPACITY TEN (10) ADULTS OR LESS, IN GENERAL LIVERY SERVICE BETWEEN, ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN GALES FERRY (A COMMUNITY OF LEDYARD), CONNECTICUT.

FINAL DECISION

March 13, 2009

I. INTRODUCTION

A. Application

By application filed on September 15, 2008 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103(a) of the Connecticut General Statutes, as amended, Rose City Livery, LLC (hereinafter "applicant") located in Gales Ferry, Connecticut seeks authorization to operate two (2) motor vehicles having a seating capacity of ten (10) adults or less, in general livery service, between all points in Connecticut from a headquarters in the town of Gales Ferry.

B. Hearing

On February 24, 2009, the department held a public hearing on this application pursuant to Connecticut General Statutes Section 13b-103(a), as amended.

Notice of the application and of the hearing to be held thereon was given to the applicant and to such other parties as required pursuant to General Statutes Section 13b-103(a)(1), as amended. The public received legal notice by publication in the New London Day, a newspaper having a circulation in the area of concern.

A hearing officer designated by the Commissioner, pursuant to Connecticut General Statutes Section 13b-17 conducted the hearing on this matter.

C. Appearances

John Garvey appeared on behalf of Rose City Livery, LLC without counsel. Rose City Livery, LLC has a mailing address of 4 Tanager Lane, Gales Ferry, Connecticut.

McKeon & McKeon, Inc. d.b.a. Joshua's Limousine Service (hereinafter "Joshua's Limousine Service") filed a petition for, and was granted, intervenor status. Joshua's Limousine Service was represented by Gary R. McKeon, owner and manager of the company. McKeon & McKeon, Inc. d.b.a. Joshua's Limousine Service has a mailing address of 172 Stoddard's Wharf Road, Gales Ferry, Connecticut.

Sheldon Lubin, utilities examiner with the Regulatory and Compliance Unit, attended the hearing.

II. FINDINGS OF FACT

1. John Garvey is the full time manager of Rose City Taxi, LLC.

2. Frederick Dragon and Patricia Dragon own Rose City Taxi, LLC. They retired from the business a year ago. Patricia Dragon was the bookkeeper for Rose City Taxi before she retired.

3. Garvey owns the applicant and he seeks to operate two livery vehicles in intrastate service because Rose City Taxi, LLC has many out of town calls. The long fares take its taxicabs out of local taxicab service.

4. Rose City Taxi, LLC has not applied for additional taxicabs due to the owners' medical conditions. The Dragons turned over the management of Rose City Taxi, LLC to their son a year ago.

5. Garvey worked as a driver and manager for several taxicab companies. For the last twelve years he has worked for Rose City Taxi, LLC.

6. James Halt works at Mohegan Sun Casino in Ledyard. He is a VIP lounge server. He calls for rides for casino customers who seek quick last minute transportation. He has called Rose City Taxi, LLC when his customers would have had to wait one or two hours for a ride. Halt also uses Rose City Taxi, LLC and he has waited often. Joshua's Livery Service was unable to accommodate Halt on an occasion.

7. Ramona Conradson, from Norwich, uses taxis three or four times a week. When she calls Rose City Taxi, LLC she has to wait a long time for service. Conradson does not like calling other companies because Rose City Taxi, LLC has better service than other companies.

8. Robert Elgin, from Norwich, uses Rose City Taxi, LLC three or four times a week and sometimes three or four times a day. Rose City Taxi, LLC has turned down Elgin for service on several occasions because a car was unavailable. Elgin has waited from ten minutes to two hours for a taxicab.

9. The applicant's insurance premium for one vehicle is estimated at \$5,369, and \$10,738 for two. Garvey will finance the insurance.

10. The applicant estimates repairs and maintenance for each vehicle at between \$200 and \$300 per month for the two vehicles.

11. As of February 2009, the applicant had cash on hand of approximately \$20,000. Garvey's annual salary is \$49,000 and income from Rose City Taxi is \$16,000 for a total of \$65,000, that he would make available for the business. Garvey has a retirement plan worth \$29,060, home equity line of credit in the amount of \$48,880, and several liabilities.

12. Garvey has no criminal convictions nor is he involved in criminal activity.

III. DISCUSSION

The department has jurisdiction over each person, association, limited liability company or corporation owning or operating a motor vehicle in livery service, pursuant to General Statutes Section 13b-102, as amended.

In determining whether a livery permit should be granted, the department shall take into consideration the present or future public convenience and necessity. The applicant must prove that the public's convenience and necessity will be improved by the proposed service. Additionally, the applicant must show the suitability of the applicant or the suitability of the management if the applicant is a limited liability company or corporation, the financial responsibility of the applicant, the ability of the applicant efficiently and properly to perform the service for which authority is requested and the fitness, willingness and ability of the applicant to conform to the provisions of the statutes and the requirements and regulations of the department thereunder, in accordance with General Statutes Section 13b-103.

John Garvey, manager of Rose City Taxi, LLC and owner of Rose City Livery, LLC, provided the requisite criminal conviction history form, showing no criminal record. Garvey has extensive experience in the taxicab business. He presents willing and able to operate the proposed business and willing to follow the rules, regulations and statutes governing livery service in the State of Connecticut, making him suitable to operate the proposed business.

With regard to financial wherewithal to operate the livery service, Garvey provided the requisite balance sheet and financial information documenting the applicant's financial status and Garvey's financial status. The applicant has cash on hand in the amount of approximately \$20,000 as of February 2009. The applicant has acquired a livery vehicle. However, with the liabilities that the Garvey documented on the balance sheet, and with the debt that Garvey has accrued, he does not have the financial capability to sustain two vehicles in livery service. Garvey's and the applicant's current financial circumstances make the applicant financially viable to operate one motor vehicle in livery service.

As for the public's convenience and necessity, the applicant's evidence was compelling; however, it was compelling for additional taxicabs, not livery vehicles. The witnesses who testified confirmed that they use taxicabs often and they often have long waits for service. Ramona Conradson and Robert Elgin testified that they require taxicab service, not livery service. Only James Halt testified that he uses livery service. Halt uses livery service several times a year and there has been one time that he could not get service from Joshua's Limousine Service.

Garvey indicated that often the taxicabs he manages are out of town. It was not clear from the record if the taxicabs provide out of state trips, but if so, then the applicant is advised that it may apply for interstate livery authority, which while they cannot be used within Connecticut, they can provide out of *state* trips, leaving the taxicabs of the sister company in their territory rather than traveling out of state.

The evidence of record shows that additional taxicabs are required in Gales Ferry and/or surrounding towns and the applicant is encouraged to apply for additional vehicles to meet the need of the taxicab riding public.

IV. CONCLUSIONS OF LAW

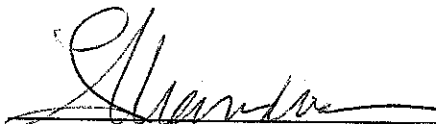
While Rose City Livery, LLC has met its burden of proving that its management possesses the suitability to operate the proposed service, and it possesses the financial wherewithal to operate one vehicles, it has failed to meet its burden of proving that the proposed business would improve the public's convenience and necessity, as required by Connecticut General Statutes Section 13b-103 et seq.

V. ORDER

Based upon the above and pursuant to Section 13b-103, as amended, the application of Rose City Livery, LLC is hereby denied.

Dated at Newington, Connecticut, this 13th day of March 2009.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Laila A. Mandour
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration