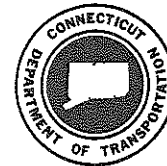


STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

Phone:

(860) 594-2875

DOCKET NO. 0904-N-29-L

RE: APPLICATION OF ELDERLY FREEDOM, LLC TO OPERATE ONE (1) MOTOR VEHICLE HAVING A SEATING CAPACITY OF TEN (10) ADULTS OR LESS, FOR THE EXPRESS PURPOSE OF PROVIDING REASONABLE LIVERY SERVICE TO HANDICAPPED PERSONS AND ELDERLY PERSONS, BETWEEN ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN BLOOMFIELD.

FINAL DECISION

September 14, 2009

## I. INTRODUCTION

### A. Application

By application filed on April 7, 2009 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-105 of the Connecticut General Statutes, as amended, Elderly Freedom, LLC (hereinafter "applicant") located at 26 Merriam Avenue, Bloomfield, Connecticut seeks authorization to operate one (1) motor vehicle, having a seating capacity of ten (10) adults or less, for the express purpose of providing reasonable livery service for handicapped and elderly persons between all points in Connecticut from a headquarters in Bloomfield, Connecticut.

### B. Hearing

Pursuant to Connecticut General Statutes, Section 4-177, as amended, a public hearing on this application was held on August 11, 2009.

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. Notice to the public was given by publication on the department website at [www.ct.gov/dot](http://www.ct.gov/dot).

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

### C. Appearances

The applicant appeared through its member, Aubry L. Dehnert and was represented by Scott B. Franklin, Esq. whose mailing address is 68 South Main Street, West Hartford, Connecticut.

Park Row Limousine Corp. (hereinafter "Park Row"), holder of Permit No. 2496, petitioned for intervenor status. Park Row appeared without counsel through its owner Richard Rivard. Park Row is authorized to operate three (3) motor vehicles in general livery service from a headquarters in New Britain and two (2) motor vehicles in general livery service from a headquarters in West Hartford. The petitioner represented that it provides livery service to elderly and handicapped persons. In the interest of justice, the petitioner was granted intervenor status on the limited issue of public convenience and necessity for transportation for elderly and handicapped persons. Park Row's mailing address is P.O. Box 331464, West Hartford, Connecticut.

Brian P. McTeague d/b/a Castle Sedans, LLC (hereinafter "Castle"), holder of Livery Permit No. 2548, petitioned for intervenor status. Castle appeared without counsel through Brian McTeague. The petitioner represented that it provides livery service to elderly and handicapped persons. In the interest of justice, the petitioner was

granted intervenor status on the limited issue of public convenience and necessity for transportation for elderly and handicapped persons. Castle's mailing address is 689 Franklin Avenue, Hartford, Connecticut.

Hollywood Enterprises, Inc. d/b/a Hollywood Coach & Limousine Co. (hereinafter "Hollywood"), holder of Livery Permit No. 2130, petitioned for intervenor status. Hollywood appeared without counsel through its owner Gianpaolo DiGrazia. Hollywood is authorized to operate five (5) motor vehicles in general livery service and two (2) motor vehicles in special livery service limited exclusively to funerals, weddings, religious and anniversary celebrations from a headquarters in Hartford. The petitioner represented that it provides livery service to elderly and handicapped persons. In the interest of justice, the petitioner was granted intervenor status on the limited issue of public convenience and necessity for transportation for elderly and handicapped persons. Hollywood's mailing address is 538 Franklin Avenue, Hartford, Connecticut.

Ambassador Wheelchair Services, Inc., holder of Livery Permit No. 2564, appeared to make a statement on the record. Ambassador Wheelchair Services, Inc., whose mailing address is 2060 Silas Deane Highway, Rocky Hill, Connecticut, is holder of Permit Number 2564.

Simon Transportation, LLC, holder of Livery Permit No. 2627, appeared through its owner Simon Khaimov to request intervenor status. Simon Transportation, LLC did not file for intervenor status and thus its request was denied. Khaimov made a statement at the end of the applicant's case. Simon Transportation, LLC holds authority for general livery service and service under contract with transportation brokers Logisticare and Dyncorp. Simon Transportation, LLC's mailing address is 96 Vanderbilt Avenue, West Hartford, Connecticut.

King Limousine, Inc., holder of Livery Permit No. 2557, appeared through its president Steven M. Begin to request intervenor status. King Limousine, Inc. is headquartered in Farmington, Connecticut a town not contiguous to the area of concern, and therefore was denied intervenor status. Begin made a statement at the end of the applicant's case. King Limousine, Inc.'s mailing address is 406 Farmington Avenue, Farmington, Connecticut.

Accent Limousine, LLC, holder of Livery Permit No. 3065, appeared through its owner Lazaros Nikolaidis to requested intervenor status. Accent Limousine, LLC has a headquarters in Wethersfield, a town not contiguous to the area of concern, and therefore was denied intervenor status. Nikolaidis made a statement at the end of the applicant's case. Accent Limousine, LLC's mailing address is 82 Dudley Road in Wethersfield, Connecticut.

#### D. Administrative Notice

Brian P. McTeague d/b/a Castle Sedans, LLC -- Livery Permit No. 2548

Operates six (6) motor vehicles in general livery service from a headquarters in Hartford;

Park Row Limousine Corp. -- Livery Permit No. 2496

Operate three (3) motor vehicles in general livery service from a headquarters in New Britain and two (2) motor vehicles in general livery service from a headquarters in West Hartford;

Hollywood Enterprises, Inc. d/b/a Hollywood Coach & Limousine Co. --  
Livery Permit No. 2130

Operates five (5) motor vehicles in general livery service and two (2) motor vehicles in special livery service limited exclusively to funerals, weddings, religious and anniversary celebrations from a headquarters in Hartford.

Ambassador Wheelchair Services, Inc. -- Livery Permit No. 2564

Operates 17 vehicles for the transportation of elderly and handicapped persons, 8 vehicles in general livery service and 5 vehicles under contract, from a headquarters in Rocky Hill.

Simon Transportation, LLC -- Livery Permit No. 2627

Simon Transportation, LLC holds authority for general livery service and service under contract with transportation brokers Logisticare and Dyncorp from a headquarters in West Hartford.

Accent Limousine, LLC -- Livery Permit No. 3065

Accent Limousine, LLC holds livery authority from a headquarters in Wethersfield.

#### II. FINDINGS OF FACT

1. The applicant seeks to provide door to door transportation service for elderly and handicapped people and with that transportation, in addition to assistance into and out of stores and doctors' offices.

2. The applicant works for International Transportation Network and provides transportation through that company.

3. The applicant currently volunteers to drive elderly people he knows to the store and to medical appointments.

4. Insurance for the applicant's vehicle is estimated at \$10,347, which will be paid in monthly installments over eight months.

5. As of August 11, 2009, the applicant had cash in the amount of \$8,229.
6. The applicant has a van that he intends to use for the business. The van is financed and has a remaining balance of \$4,167.
7. The van that the applicant intends to use in the proposed service does not have a device designed to secure individuals in wheelchairs while transferring such individuals from the ground to the vehicle.
8. The van that the applicant intends to use in the proposed service does not have a device that secures the wheelchair to the motor vehicle's mechanical lift or otherwise prevents or seeks to prevent an individual from falling from such mechanical lift or motor vehicle.
9. None of the intervening companies have a headquarters in Bloomfield.
10. None of the intervening companies have livery service issued pursuant to Connecticut General Statutes Section 13b-105.
11. The applicant's management has no criminal convictions.

### 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.

Moreover, in determining the special needs of the handicapped and elderly, the department may take into consideration the convenience and the physical and mental frailties of, and the care, safety and protection necessary for the best interest of the handicapped and elderly as enumerated in Section 13b-105 of the General Statutes. Lastly, a permit shall not be issued unless such applicant's motor vehicle meets the requirements of subsection (e) of Section 14-100a.

In support of financial wherewithal, the applicant provided the following evidence: Insurance coverage for the applicant's vehicle is estimated at a cost of \$10,347. This cost would be financed over eight months at \$1,108 per month; operating expenses annually are estimated at \$5,200 for fuel, property taxes \$300, repairs and maintenance at a cost of \$665. The company owns its vehicle with an auto loan that is being paid and current. Non variable expenses will not be significantly increased thus, financially, the applicant has the capability to operate one proposed vehicle.

With regard to suitability, the applicant provided a criminal conviction history form showing no criminal record for the owner of the business. The applicant testified that he is willing and able to operate the proposed service within the confines of the rules, regulations and statutes that govern the industry. Furthermore, the applicant's testimony was believable when he stated that he did not provide any such service without a permit. Accordingly, the applicant has proven suitability.

Lastly, as for public convenience and necessity – the application fails. Notwithstanding the above, the applicant's proposed service cannot be approved on the basis that the vehicles the applicant seeks to use in the proposed service cannot be used, as required by Connecticut General Statutes Section 13b-105. Any grant of authority under this section of the statutes must meet the requirements of subsection (e) of Section 14-100a of the Connecticut General Statutes which provides:

*(e) (1) Any person who transports an individual who remains in a wheelchair while being transferred into and out of a vehicle, in any motor vehicle on the highways of this state, shall provide and require the use of a device designed to secure individuals in wheelchairs while transferring such individuals from the ground to the vehicle and from the time the motor vehicle is brought to a stop until such individuals are transferred from the vehicle to the ground. Such device shall be located in the motor vehicle at all times. The Commissioner of Motor Vehicles may, after consultation with the Departments of Transportation and Public Health, establish regulations to implement the provisions of this section and sections 13b-105 and 14-102a, subsection (d) of section 14-103, subsection (a) of section 14-275 and subsection (a) of section 19a-180.*

*(2) The following motor vehicles registered in this state for the first time on or after October 1, 2007, that transport individuals who remain in wheelchairs while being transported, shall, in addition to the requirements of subdivision (1) of this subsection, install or provide and require the use of a device that secures the wheelchair to the motor vehicle's mechanical lift or otherwise prevents or seeks to prevent an individual in a wheelchair from falling from such mechanical lift or motor vehicle: (A) Motor vehicles in livery service, as defined in section 13b-101, (B) service buses, as defined in section 14-1, (C) invalid coaches, as defined in subdivision (11) of section 19a-175, (D) vanpool vehicles, as defined in section 14-1, (E) school buses, as defined in section 14-1, (F) motor buses, as defined in section 14-1, (G) student transportation vehicles, as defined in section 14-212,*

*and (H) camp vehicles, as defined in section 14-1. The provisions of this subsection shall also apply to all motor vehicles used by municipal, volunteer and commercial ambulance services, rescue services and management services, as defined in subdivision (19) of section 19a-175.*

The record is silent on the applicant's intent to use such a vehicle in its business. Since there is no such evidence on the record, the application must be denied.

#### IV. CONCLUSION OF LAW

Elderly Freedom, LLC possesses the suitability, financial wherewithal to operate the proposed service, and further, the best interest of the elderly and handicapped would be served, and the care and protection of the elderly and handicapped would be served with a grant of the requested authority in accordance with Connecticut General Statutes Section 13b-105.

However, the applicant presented no evidence to prove that the applicant's proposed vehicles meet the requirements of Section 14-100a, nor was there any evidence presented that the applicant would purchase such vehicles. Accordingly, the applicant fails to meet the requirements for a grant of authority as required by Section 13b-105 of the General Statutes.

In the future, however, should the applicant purchase, or intend to purchase, such vehicles as described in 14-100a, it is encouraged to apply for authority to meet transportation needs of the elderly and handicapped.

#### V. ORDER

Based upon the above and pursuant to Connecticut General Statutes Section 13b-105, as amended, the application of Elderly Freedom, LLC is hereby denied.

Dated at Newington, Connecticut, this the 14<sup>th</sup> day of September 2009.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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