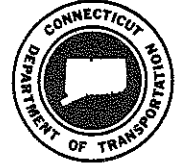


STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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

Phone:

(860) 594-2875

DOCKET NUMBER 1202-C-20-L
(Case No. LV02-2112-8)

RE: IN THE MATTER OF THE CITATION OF A & A
WHEELCHAIR, LLC.

Final Decision

June 5, 2012

I. INTRODUCTION

A. General

By citation dated March 26, 2012, by the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes Section 13b-103, as amended, A & A Wheelchair, LLC (hereinafter "respondent"), holder of Livery Permit Number 2770, was ordered to come before the department to answer the allegations made therein.

Pursuant to said citation, the respondent was directed to appear at the Newington office of the Department of Transportation to show cause why Livery Permit Number 2770, issued for the operation of livery service, should not be suspended or revoked or a civil penalty imposed for violation of its livery permit pursuant to Connecticut General Statutes Section 13b-102, et seq.

More specifically, it is alleged that the respondent violated Section 13b-103 of the Connecticut General Statutes in that it failed to maintain an active headquarters.

The citation was served upon the respondent at 44 Pane Road, Newington, Connecticut, 06111 by first class and certified mail and recited the department's reasons for issuing it.

B. Hearing Held

Pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, the public hearing for this citation was held on May 31, 2012.

Notice of the citation and the hearing to be held thereon was given to the respondent and to such other parties as required by Connecticut General Statutes Section 13b-103, as amended. Notice to the public was made on the department's website.

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

C. Appearances

Sirage Malani appeared on behalf of the applicant. The respondent was represented by Stuart Roth, Esq. Mr. Roth's mailing address is 185 Asylum Avenue, Hartford, Connecticut.

Eugene Morris, Public Transportation Transit Inspector with the Regulatory and Compliance Unit, was the case presenter in this matter.

Richard Majka, Public Transportation Transit Inspector with the Regulatory and Compliance Unit, was a witness in this case.

II. FINDING OF FACTS

1. On March 25, 2010, the respondent purportedly entered into a lease for office space at 224 Park Road, West Hartford which was to start April 1, 2010 and end August 31, 2015. (Respondent Exhibit #1)

2. On December 21, 2010, the respondent filed a Permit/Certificate Holder Information sheet that reflected that its headquarters address was 236 Park Road, West Hartford while the respondent had supposedly already moved to the 224 Park Road address. (Department Exhibit #4)

3. On January 7, 2011, the respondent claims to have filed a Permit/Certificate Holder Information sheet which reflects a headquarters address of 224 Park Road, West Hartford, Connecticut. This sheet was not in the department's files and contains no proof that it was actually filed. (Respondent Exhibit #2)

4. The respondent filed a sale and transfer application on January 11, 2012.

5. As the result of the respondent's sale and transfer application, the department was required to perform a headquarters inspection on February 17, 2012. (Department Exhibit #3)

6. On January 26, 2012, an agent for the respondent was asked by the department to file a new information sheet. This sheet has a crossed out headquarters address of 236 Park Road and an office designation of 44 Pane Road, Newington, Connecticut. It is signed by the respondent. (Department's Exhibit #5)

7. On February 17, 2012, Richard Majka performed a headquarters inspection at 236 Park Road, West Hartford and found that there was no headquarters at this address. (Department Exhibit #3)

8. Mr. Majka spoke with the current occupant of 236 Park Road, West Hartford, Cricket Press, who stated that the respondent may have been out of that location for as much as two years prior to the inspection date. (Department Exhibit #3)

9. The department sent a warning letter to the respondent on February 22, 2012.

10. The respondent claims to have filed two Permit/Certificate Holder Information sheets on March 1, 2012 which show the 224 Park Road, West Hartford address as the new headquarters address. These documents were not in the department's permanent file. (Respondent's Exhibit #3)

11. On March 13, 2012, the respondent called the department to state that his company had moved to the 224 Park Road, West Hartford, Connecticut address.

12. The respondent does not maintain a fax machine at 224 Park Road, West Hartford, Connecticut and the mail is forwarded to another location.

III. DISCUSSION

The Department of Transportation has jurisdiction over matters pertaining to the operation of motor vehicles in livery service in the State of Connecticut in accordance with Connecticut General Statutes Section 13b-102, as amended.

Pursuant to Connecticut General Statutes Section 13b-103, the department may amend, or for sufficient cause suspend or revoke any such permit. Further, the department may impose a civil penalty on any person who violates any provision of the governing chapter or any regulation adopted under Section 13b-102 through 13b-109, as amended, with respect to fares, service, operation or equipment, in an amount not to exceed one thousand dollars per day for each violation.

Mr. Malani testified that he lost his lease at 236 Park Road, West Hartford office in October. On March 25, 2010, Mr. Malani entered into a lease for an office at 224 Park Road, West Hartford to start April 1, 2010.

On December 21, 2010, after the lease was executed, the respondent filed an information sheet with the department that reflected that his headquarters was still at the 236 Park Road address, never mentioning the new 224 Park Road address.

Subsequently, a few weeks later, on January 7, 2011 the respondent testified that he filed another information sheet showing the headquarters at 224 Park Road address. This document was not in the department's file. There is no indication from looking at this document that the department ever received this information. It was supposedly faxed but it contains no time or date stamp.

On January 26, 2012 the respondent filed another information sheet which reflected the 236 Park Road headquarters address which was subsequently crossed out and the word "office" was written next to the Pane Road, Newington mailing address indicating the office had been then been moved to the Newington address.

The respondent then introduced two documents which were not in the department's files which show the headquarters address of 224 Park Road in West Hartford. These forms were both dated March 1, 2012, after the respondent had been notified by warning letter of February 22, 2012 that there was a problem with the 236 Park Road headquarters location.

Respondent's argument that it had notified the department of the new office at 224 Park Road has not proven. There are several documents filed by the respondent on both December 21, 2010 and January 26, 2012 which show the 236 Park Road address or the 44 Pane Road, Newington headquarters address while supposedly the respondent was already at the 224 Park Road address, as per the lease agreement on April 1, 2010. If respondent is to be believed, then why do these documents reflect other headquarters addresses. Shouldn't the respondent know where its headquarters office is.

The respondent also testified that it does not have a fax machine at the 224 Park Road address and the mail is forwarded to another location further indicating that this supposed office rented from the European Spa and Tanning is not a real headquarters office. There are too many contradictions in the respondent's argument which makes no real sense. The only thing that can be gleaned from the evidence is that the respondent has made an elaborate attempt to cover up the fact that it was not really at the 224 Park Road address and it was instead operating from its Newington address.

This headquarters rouse has been clearly ongoing for several years. As a result of the respondent's failure to operate at its proper headquarter address, the respondent will be assessed a civil penalty of \$5,000. The department will be performing random site inspections of the respondent's headquarters location in West Hartford at the 224 Park Road address during the next six months to ensure compliance.

IV. ORDER

Based on the above, the respondent, A & A Wheelchair, LLC will be assessed a civil penalty of \$5,000 to be paid to the "Treasurer, State of Connecticut" within 30 days from the date of this final decision. The department will perform random site inspections of the new headquarters to ensure compliance.

Failure of the respondent to pay the civil penalty by the date specified will result in a possible suspension, revocation or additional civil penalties pursuant to Connecticut General Statutes Sections 4-182(c).

Dated at Newington, Connecticut on this 5th day of June 2012.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Judith Almeida
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration