

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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

Phone:

(860) 594-2875

DOCKET NUMBER 1410-N-176-L

RE: APPLICATION OF RS DIFFERENTIAL AGENCY, LLC TO OPERATE TWO (2) MOTOR VEHICLES, HAVING A SEATING CAPACITY OF LESS THAN ELEVEN (11) ADULTS, IN GENERAL LIVERY SERVICE BETWEEN ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN NEW LONDON.

FINAL DECISION

JANUARY 8, 2016

I. INTRODUCTION

A. General

By application filed on October 14, 2015, with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, RS Differential Agency, LLC ("applicant") with a mailing address of 54 State Street, New London, Connecticut 06320 seeks authorization to operate two (2) motor vehicles, having a seating capacity of less than eleven (11) adults, in general livery service between all points in Connecticut from a headquarters in the town of New London.

B. Hearing Held

Pursuant to Connecticut General Statutes Section 13b-103, as amended, a public hearing on this application was held on October 6, 2015 and December 17, 2015.

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 the Connecticut General Statutes Section 13b-103. Legal notice to the public was given by publication on the department's website.

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

C. Appearances

Ronaldo Souffrant appeared on behalf of the applicant. The applicant was represented by Michael Stone, Esq. with a mailing address of 129 Church Street, Suite 806, New Haven, Connecticut 06510.

Mary Alice Leonhardt, Esq. represented two intervenors, Yellow Cab Company of New London and New Groton, Inc. and Curtin Motor Livery, Inc. Ms. Leonhardt's mailing address is One State Street, Hartford, CT 06103.

Samuel Hall of Norwich Transportation, Livery Permit Number 3464, petitioned for intervenor status which was denied based on the fact that his company does not have general livery authority.

D. Administrative Notice

Administrative notice was taken of Livery Permit Number 1112 for Curtin Motor Livery, Inc. and Livery Permit Number 146 for Yellow Cab Company of New London and Groton. The minimum livery rate for Curtin Motor Livery and Yellow Cab of New London and Groton is \$20.

II FINDING OF FACTS

1. The applicant seeks to operate two (2) motor vehicles in intrastate livery service from a headquarters in New London.
2. Most of the witnesses presented by the applicant are either friends or potential drivers.
3. Many of the witnesses were completely unaware of what livery service is and have never used a livery service.
4. The applicant's assets include a cash balance of \$86,623, which includes money received from an executed note pledged by an investor.
5. The applicant's expenses include an annual insurance premium of \$8,021, property tax of \$853, advertising expenses of \$1,500, legal expenses of \$1,500, accounting expenses of \$200 and reception staff costs of \$7,500. Maintenance on the vehicles is \$125 per every 3,000 miles for oil changes, glass repair of \$250 per vehicle and \$700 for replacement of four tires.
6. The applicant will be utilizing a 2010 Toyota Camry which has a balance of \$12,363 on the note and a 2012 Lincoln MKZ which will be purchased. The fair market value of the Lincoln MKZ is \$20,612.
7. Shakeel Kahn is a medical transport driver for Ace transportation. He is a friend of the applicant whom he met when they worked together at Yellow Cab. He is available to drive for the applicant, if the applicant receives a livery permit.
8. Hope Robinson is the applicant's taxicab customer who utilizes his taxicab service several times a week to transport both her daughter and herself. She has never arranged for a livery ride before.

9. Darrel Reels is a taxicab customer of the applicant. He uses taxicab service approximately ten times a month. His average taxicab ride usually costs \$20.
10. Guerdy Germain works at the Sleep Inn at the front desk and in maintenance. At the present time, Mr. Germain only calls taxi companies to service the guests.
11. Nick Garrison works at the Red Roof Inn in New London at the front desk. He did not know what livery service was and has never arranged for livery service. No one has ever asked him to hire a livery vehicle.
12. Ellen Christopher worked with the applicant at Harry's Taxi. She may act as a driver for the applicant if the application is granted.
13. Gary Etienne drives for Harry's Taxi and is a neighbor of the applicant. He would be willing to drive for the applicant if the application gets approved.

14. Darren Green was a former coworker of the applicant at Yellow Cab. Mr. Green may also drive for the applicant if the application is granted.

15. Steve Pierre worked with the applicant in the past and testified as to the applicant's good character.

16. Collen Colby will act as the applicant's office manager. Ms. Colby is currently acting as the office manager for RS Differential, the applicants driving school business. She will act in the same capacity handling drivers and payroll for the livery business if the application is approved. Other individuals will be hired to perform dispatch services.

17. The applicant, Mr. Souffrant, does not have interstate livery authority at this time and has not previously operated a livery service.

18. Mr. Souffrant has been a taxicab driver for the past fifteen years.

III. DEPARTMENT ANALYSIS

The department has jurisdiction over each person, association, limited liability company or corporation owning or operating a motor vehicle in livery service, pursuant to Connecticut 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 Connecticut General Statutes Section 13b-103.

Some factors to consider in granting a livery permit are whether the service will benefit the relevant class of users, whether the proposed service is more efficient, more economical, more convenient, more satisfactory, or different than the services offered by the existing service providers, whether the new service would create a potentially beneficial effect upon rates and customer service and whether the acquisition of equipment would be more suitable to customer needs, whether the population in the area that the applicant proposes to service is increasing, whether potential customers have requested a service like that suggested by the applicant and whether the proposed service will improve the existing mode of transportation as recently defined in Steve Martorelli v. Department of Transportation (SC19307).

Although the new standards set by our State Supreme court have redefined the analysis of what the hearing officer should take into consideration in granting a livery permit, much of the witness testimony presented by the applicant was not on point with regard to those standards.

Many of the witnesses presented are friends and former coworkers of the applicant who hope to drive one of the livery vehicles he is seeking to operate, thereby creating credibility problems because of their vested interest in the outcome of the hearing.

Several of the remaining witnesses who are actual customers of the applicant while he was operating a taxicab driver have never requested a livery vehicle or had knowledge of what livery service is. They also don't seem to be aware of how much more expensive livery service is than the taxicab service they are currently paying for. Livery services are required to charge higher prices than taxi services and one wonders whether the applicant's current taxicab customers will be willing to pay the much larger prices with all rides having a \$50 minimum charge. Comparing the applicant's minimum rate with the rate of the intervenors, the evidence shows that the applicant's rate is higher than the \$20 starting rate of the two intervening companies.

The applicant currently drives a taxicab and the evidence presented by the applicant seems to be far suited to prove the need for taxi service rather than livery service. When asked about his reason for seeking livery authority rather than taxicab authority, the applicant said only that it looked to be more profitable. The applicant clearly has a loyal base of support from his current taxicab clientele but there was no evidence presented by the applicant that directly focused on the need for livery service in the New London area. There was no discussion that the applicant's proposed livery prices were better than his competition or that the vehicles he was going to utilize were different from those already servicing the community. Likewise, there was no discussion about population increases in the area or what is lacking in the current livery services offered by the livery companies currently operating in that area. There was also no evidence showing that the applicant's service would be more efficient, more economical or more satisfactory than the existing services.

All of the discussion at the hearing centered on problems with the local taxicab service and never focused on the real issue at hand, livery service. The two employees from the local hotels testified they did not know what livery service was and had only called taxicabs for guests and that none of the guests have requested livery service.

In support of financial wherewithal, the applicant presented evidence that his assets include a cash balance of \$86,623. The applicant's expenses include an annual insurance premium of \$8,021, property tax of \$853, advertising expenses of \$1,500, legal expenses of \$1,500, accounting expenses of \$200 and reception staff costs of \$7,500. Maintenance on the vehicles is \$125 per every 3,000 miles, glass repair of \$250 per vehicle and \$700 for replacement of four tires.

The applicant will be utilizing a 2010 Toyota Camry which has a balance of \$12,363 on the note and a 2012 Lincoln MKZ which will be purchased in the future. The fair market value of the Lincoln MKZ is \$20,612. Based on the applicant's available cash, there are sufficient funds to support the business during the initial six month start-up period.

With regard to suitability, the applicant provided the requisite criminal conviction history for the member, Mr. Ronaldo Souffrant, which showed a breach of peace criminal arrest from 2014. When asked about this recent event it was explained that he was involved in a fight. As this is the applicant's only arrest, the incident in question will be overlooked and not held against the applicant. Mr. Souffrant has been a taxi driver for fifteen years and currently operates a driving school business. Based on the evidence presented, the applicant has proven suitability.

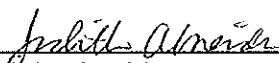
While the applicant has the adequate financial ability and suitability, the applicant has failed to prove that public convenience and necessity would be improved by a grant of this livery application.

IV. CONCLUSION AND ORDER

Based upon the above and pursuant to Connecticut General Statutes Section 13b-103, as amended, the application of RS Differential Agency, LLC is hereby denied.

Dated at Newington, Connecticut on this 8th day of January 2016.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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