



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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REVISED DECISION

DOCKET NUMBER 1609-N-109-L

RE: APPLICATION OF MANUELA ALVES TO OPERATE ONE (1) MOTOR VEHICLE, HAVING A SEATING CAPACITY OF LESS THAN FIFTEEN (15) ADULTS, IN GENERAL LIVERY SERVICE BETWEEN ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN NORWICH.

MAY 15, 2019

I. INTRODUCTION

A. General

By application filed on September 22, 2016, with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, Manuela Alves ("applicant") with a mailing address of 56 Tenth Street, Norwich, Connecticut 06360 seeks authorization to operate one (1) motor vehicle, having a seating capacity of less than fifteen (15) adults, in general livery service between all points in Connecticut from a headquarters in the town of Norwich.

B. Hearing Held

Pursuant to Connecticut General Statutes Section 13b-103, as amended, a public hearing on this application was held on November 10, 2016.

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

Manuela Alves appeared pro se on behalf of the applicant. Ms. Alves mailing address is 56 Tenth Street, Norwich, Connecticut 06360.

Curtin Motor Livery Service, Inc. (hereinafter "Curtin") petitioned for intervenor status which was granted. Curtin was represented by Attorney Matthew Forrest with a mailing address of 72 Somerset Street, Wethersfield, Connecticut 06109.

D. Background

After the initial decision was rendered in this matter on November 17, 2016, the intervenor, Curtin, filed an administrative appeal in the Superior Court on December 22, 2016. On February 1, 2018, the department issued an Amended Decision for Articulation in Accordance with a Court Order. On July 17, 2018, the court ordered a remand to the department to consider the conflict between paragraph 9 and paragraphs 25-27 of the Amended Decision for Articulation.

On January 28, 2019, the court granted the department's request to supplement the record to consider the new tariff filed by the applicant on September 21, 2017. A hearing was originally scheduled for November 29, 2018. After several continuances, the hearing was held on April 12, 2019. The applicant did not appear for that hearing. After the hearing, the applicant telephoned the hearing officer at approximately 10:45 AM on April 12, 2019 to explain that she went to the wrong place instead of the Department of Transportation in Newington. On April 16, 2019, the department sent the applicant a certified letter asking for a written explanation as to why she failed to appear at

the April 12, 2019 hearing and whether she wished to be heard on the new tariff. The certified letter specified that the applicant respond by the deadline of May 1, 2019. The applicant has never responded to that letter.

E. Administrative Notice

At the hearing on April 12, 2019, the department took Administrative Notice of the September 21, 2017 tariff filed by the applicant and approved by the Regulatory & Compliance Unit (hereinafter "new tariff"). This tariff reflects a minimum charge of \$25 per trip. The waiting and in use time per hour is charged at \$36.01 with a per mile charge of \$1.12. The van seating capacity has also changed from fourteen (14) to eleven (11) passengers.

II. FINDING OF FACTS

1. The applicant seeks to operate one (1) motor vehicle in intrastate livery service from a headquarters in Norwich.
2. The primary type of livery transportation the applicant is seeking to provide is trips for Foxwoods casino employees from their homes in Norwich to the casino in Ledyard.
3. Ms. Alves is a part-time employee at Foxwoods and is familiar with her coworkers not being able to get rides to work. She is often asked by family and friends for rides to work at Foxwoods.
4. Curtin has one (1) general livery permit and two (2) governmental livery permits from a headquarters in Norwich.
5. The applicant has lined up two people with public service licenses who can drive for the company, Joel Mendez and Jose Fernandez.
6. Under the new tariff the applicant will utilize a 2007 eleven (11) passenger van for the transportation. Originally, the applicant proposed utilizing a fourteen (14) passenger van.
7. The hours of operation will be 6 AM to 12 AM, seven days a week.
8. There is no public transportation to Foxwoods causing some employees to walk to work.
9. The applicant's original tariff had a charge of \$2.50 for each person on a one-way trip. The new tariff has a minimum charge of \$25 per trip. Waiting and in use time per hour is charged at \$36.01. The mileage charge is \$1.12 per mile.
10. Ms. Alves has a partner, Mr. Joao Depina, who will also help out in the business.
11. The other livery company in Norwich that transports employees to Foxwoods is Da Sheng Travel, Inc. This company only transports employees from set points in Norwich to the casino and does not transport employees from their homes to the casino.
12. Elga Vierra is interested in using the applicant's service to go to work. She often receives rides

from Ms. Alves or her husband. Because of conflicting schedules, she has gone to work early to catch a ride with her husband. She can afford to pay the lower rate that the applicant is proposing to charge.

13. The Foxwoods casino no longer provides any employee transportation.

14. Aaron Milner has a brother who works at Foxwoods. He and his mother have to transport his brother to and from work. His brother would use this type of livery service.

15. Jocelina Alves, the sister of the applicant works in Foxwoods housekeeping. Her co-workers often need rides to work and she drives them three to four times a week. She estimates ninety percent of the people she works with do not have a car. She took a taxi a year ago from her house to work and it cost approximately \$55.

16. Mr. Miller is the general manager of Curtin. Curtin operates both taxi and livery service in the area. He estimates that a taxi trip from Norwich would cost between \$17 to \$25 for a one way trip.

17. Many of the Foxwood employees are not able to pay the cost of a taxi or livery service since they are making minimum wage.

18. The applicant has \$8,164 in a Bank of America account.

19. The applicant's first six months of expenses includes insurance of \$3,956, maintenance of \$500, property tax of \$250 and vehicle payments of \$2,093.

20. Prior to filing her application for a livery permit, the applicant operated in livery service for one day before she received a ticket from the police for operating an illegal livery service. Ms. Alves was not aware that she needed a permit to perform livery service and stopped operation immediately.

21. Ms. Alves's service was successful in producing revenue on the one day it was in operation.

22. Prior to the November 17, 2016 decision, Foxwoods employees had been asking Ms. Alves when the service will start up again.

23. The \$25 to \$36.01 livery rate proposed in the new tariff by the applicant is higher than the prevailing taxicab rate of \$17 to \$25.

24. Curtin charges approximately \$28 one way for a livery trip from Norwich to Foxwoods.

25. The applicant's livery service is more economical for the employees because the applicant will divide the total livery rate by the number of passengers on the van. There is no indication in the record that the intervenor provides patrons the same option of fare splitting.

26. There is nothing in the record which indicates what type of vehicle the intervenor operates in livery service and whether it equivalent to the eleven (11) passenger van proposed by the applicant.

27. Ms. Alves has no criminal record.

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 defined in Martorelli v. Department of Transportation 316 Conn. 538 (2015).

The financial review conducted by the department in livery applications is simply whether the applicant can operate the business for the first six months without relying on revenue which is speculative. The expenses considered in the financial analysis are major expenses during this time and not minor expenses which may or may not come into play after authority is granted. The applicant is not required to go into minute detail accounting for every possible expense.

In support of financial wherewithal the applicant presented evidence the applicant's first six months of expenses includes insurance of \$3,956, maintenance of \$500, property tax of \$250 and vehicle payments of \$2,093 for a total expense of \$6,799. The applicant has \$8,164 in a Bank of America account which is more than sufficient to cover these costs. Therefore, the applicant is deemed financially suitable to operate this livery service.

With regard to suitability, the applicant provided the requisite criminal conviction history form for Ms. Alves which failed to disclose any prior criminal history. Ms. Alves has shown a willingness to comply with the rules and regulations by immediately ceasing operation and applying for livery authorization when she realized she didn't have the proper permit. Based on the evidence presented, the applicant has proven the required suitability and fitness and ability to be granted a livery permit.

The applicant must also prove public convenience and necessity. In that regard, Ms. Alves presented very credible witnesses who are looking to use the service or know someone who will benefit from it. With regard to providing more efficient, more economical or more satisfactory service, Ms. Alves livery service is mainly seeking to transport employees to Foxwoods. In that regard her service will be a highly efficient service for those individuals who will be shuttled directly to and from their homes instead of from set pick up points. The other service being operated for employees only picks up from defined locations and not from employee homes which makes the applicant's service more convenient for the employees. This distinction makes the applicant's service different from the other service offered.

On the one day of operation before applying this livery permit, the company found the Foxwoods' employees response to be very favorable. Since Ms. Alves stopped operating the livery service, prior to the November 16, 2016 decision, employees asked her when she will be able to start livery operation again. These requests show a need for this livery service.

The applicant's livery service is also much more economical than the intervenors livery service when there are multiple passengers on the van since she will divide the total livery trip rate by the number of passengers riding the van, The intervenor charges at least \$28 for this livery trip and has not indicated that they allow the same type of fare splitting that the applicant proposes to lower the customers fare.

There is also no indication as to the type of vehicle the intervenor is operating and whether it can provide service for many individuals. The applicant's eleven (11) passenger van allows a reduction in the cost per passenger since the fare is being split by many passengers.

The intervenors service is less affordable to the Foxwoods employees who can't pay \$30 a day for transportation. These employees do not make a lot of money and need a low cost transportation service to and from work since the cost of other livery and taxi service is high and there is no public transportation. The applicant has shown that her service improves public convenience and necessity.

Based on the evidence presented, the applicant has proven the required elements to be granted livery authorization.

V. CONCLUSION AND ORDER

Based upon the above and pursuant to Connecticut General Statutes Section 13b-103, as amended, the application of Manuela Alves is hereby granted and Livery Permit Number 3568 is issued as follows:

LIVERY PERMIT NO. 3568 **FOR THE OPERATION OF LIVERY SERVICE**

Manuela Alves is hereby permitted and authorized to operate one (1) motor vehicle, having a seating capacity of less than fifteen (15) adults, in general livery service from a headquarters in

Norwich.

RESTRICTIONS:

The applicant must register the one (1) vehicle granted under this decision within sixty (60) days from the date of this final decision.

The applicant may charge each passenger an equal share of the livery rate provided such livery rate shall not be less than the prevailing taxicab rate.

The authority granted under this permit may not be sold or transferred until it has been operational, i.e. a vehicle registered with livery plates thereunder for not less than twenty-four (24) months.

This permit shall remain in effect until it is amended, suspended or revoked by the department. Failure of the permit holder to maintain proper insurance and/or comply with all pertinent motor vehicle laws and other State statutes and/or rules, regulations and orders of the department shall be considered sufficient cause to amend, suspend or revoke said permit.

A memorandum of this permit, bearing the seal of the department, shall be conspicuously posted in each motor vehicle operated under this permit.

Dated at Newington, Connecticut on this 15th day of May 2019.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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Bureau of Finance and Administration