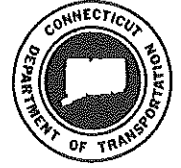




STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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

Phone:

ERRATA (Docket Number)

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.

DECISION

NOVEMBER 17, 2016

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. Errata

The final decision issued on November 15, 2016 had the incorrect docket number on the cover page. The docket number is herein corrected in this reissued decision.

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. The applicant will utilize a 2007 fourteen passenger Ford van for the transportation.
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 will charge \$2.50 for each person on a one way trip.
10. Curtin charges between \$17 and \$25 for trips from Norwich to Foxwoods.
11. Ms. Alves has a partner, Mr. Joao Depina, who will also help out in the business.
12. 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.
13. 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 \$5.00 round trip the applicant is proposing to charge.
14. The Foxwoods casino no longer provides any employee transportation.
15. 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.

16. 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 don't have a car. She took a taxi a year ago from her house to work and it cost approximately \$55.
17. Mr. Miller is the general manager of Curtin. He estimates that a taxi trip from Norwich would cost between \$17 to \$25 for a one way trip.
18. Livery trips are by reservation and are considered a premium service that cost more than taxi rides.
19. Many of the Foxwood employees are not able to pay the cost of a taxi or livery service when they are making minimum wage.

20. The applicant has \$8,164 in a Bank of America account.
21. 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.
22. 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.
23. Ms. Alves's service was successful in producing revenue on the one day it was in operation.
24. Since the applicant ceased operation, employees have been asking Ms. Alves when the service will start up again.

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 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 first day of operation, the company found the employees response to be very favorable. Since Ms. Alves stopped operating the livery service, employees have asked her when she will be able to start livery operation again. These requests show a need for this livery service.

The applicant's service is also much more economical than the intervenors livery service since she will only charge \$2.50 per trip while the intervenor charges at least \$17. The intervenors service is less affordable to the Foxwoods employees who can't pay \$30 a day for transportation. These employees don't make a lot of money and need a low cost transportation to and from work. Since the cost of other livery and taxi service is high and there is no public transportation, employees are walking. 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 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 17th day of November 2016.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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