



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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Phone:

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DOCKET NO. 1010-NGOV-88-L

RE: APPLICATION OF METROPOLITAN LIVERY, INC. DBA METROPOLITAN LIVERY TO OPERATE TWENTY-FIVE (25) MOTOR VEHICLES, HAVING A SEATING CAPACITY TEN (10) ADULTS OR LESS, IN THE TRANSPORTATION OF PASSENGERS FOR HIRE BY VIRTUE OF A CONTRACT WITH, OR A LOWER TIER CONTRACT FOR, ANY FEDERAL, STATE OR MUNICIPAL AGENCY BETWEEN ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN WEST HAVEN.

FINAL DECISION

September 14, 2011

I. INTRODUCTION

A. Application

By application filed on October 12, 2010 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, Metropolitan Livery Inc. d.b.a. Metropolitan Livery (hereinafter "applicant") seeks authorization to operate twenty-five (25) motor vehicles, having a seating capacity of ten (10) adults or less, in the transportation of passengers for hire by virtue of a contract with, or a lower tier contract for, any federal, state or municipal agency between all points in Connecticut from a headquarters in the town of West Haven.

B. Hearing

Pursuant to Connecticut General Statutes, Section 13b-103(a)(3), as amended, a public hearing on this application was held on August 30, 2011.

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 Connecticut General Statutes Section 13b-103(a)(1), as amended. Legal notice to the public was given by publication on the department website.

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

C. Appearances

Metropolitan Livery, Inc. d.b.a. Metropolitan Livery appeared pro se through William Scalzi. The applicant's mailing address is P.O. Box 26094, West Haven, Connecticut 06516.

Sheldon Lubin, from the Regulatory and Compliance Unit, was present at the hearing.

D. Amended Final Decision in Docket Number 1010-TH-89-L

On August 17, 2011, the department issued an amended final decision to the applicant which inadvertently removed a restriction on five (5) of its livery vehicles. That restriction is being reinstated in this decision.

E. Amended Application

The applicant originally applied for twenty-five (25) motor vehicles but at the hearing sought to reduce the amount of vehicles to twenty (20).

II. FINDINGS OF FACT

1. The applicant is currently the holder of Livery Permit No. 736 and is authorized to operate twenty six (26) livery vehicles from a headquarters in West Haven.

2. The applicant currently uses taxis to perform its contract work for Logisticare. Logisticare would rather use livery vehicles because the amount of insurance required to operate a livery vehicle is much higher than to operate a taxicab.

3. Jim McMellon from Logisticare supports the application because the applicant is providing service to Logisticare's clients and will be utilizing twenty (20) livery vehicles.

4. The applicant has not registered three of its twenty-six livery vehicles.

5. The applicant's insurance is \$3,900 per vehicle.

6. The estimated vehicle operating expenses are repairs and maintenance of \$4,000 and property tax of \$400 per year.

7. As of June 30, 2011, the applicant had total assets of \$2,734,713 and cash on hand of \$236,395.

8. There is no opposition to this application.

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 there under, in accordance with General Statutes Section 13b-103.

To show financial support the applicant submitted information that the insurance is \$3,900 per vehicle. The estimated vehicle operating expenses are repairs and maintenance of \$4,000 and property tax is \$400 per year. As of June 30, 2011, the applicant had total assets of \$2,734,713 and cash on hand of \$236,395. Based on the evidence presented, the applicant has sufficient assets to operate the proposed service.

In support of suitability to operate the proposed service, the applicant presented the criminal record check for William Scalzi which showed no convictions. The applicant has been in the livery business and in fact performed such contract work in the past. There was no evidence brought to light which would render the applicant unsuitable.

Lastly, the applicant must prove that the public's convenience and necessity will be improved by the proposed service. The applicant has a signed contract in place with Logisticare and seeks to operate twenty (20) vehicles to provide this work. Mr. McMellon, Director of Operations, from Logisticare appeared in support of the applicant and the need for the additional livery vehicles.

The applicant has three vehicles currently unregistered that it can use to fill three of the twenty vehicles needed for Logisticare work. Therefore, the applicant will only be granted seventeen (17) additional vehicles. The applicant is reminded that it is restricted to performing only Logisticare work with the seventeen (17) vehicles granted in this decision.

IV. ORDER

Based upon the above and pursuant to Connecticut General Statute Section 13b-103, as amended, the application of Metropolitan Livery, Inc. d.b.a. Metropolitan Livery is hereby granted in part. Accordingly, Permit Number 736 standing in the name of Metropolitan Livery, Inc. d.b.a. Metropolitan Livery is hereby amended and reissued as follows:

LIVERY PERMIT NO. 736

Metropolitan Livery, Inc. d.b.a. Metropolitan Livery is hereby permitted and authorized to operate twenty-one (21) motor vehicles, each having a seating capacity of less than ten (10) adults, between all points in Connecticut from a headquarters in West Haven.

Metropolitan Livery, Inc. d.b.a. Metropolitan Livery is hereby permitted and authorized to operate five (5) motor vehicles having a seating capacity of ten adults or less in SPECIAL LIVERY SERVICE, limited to work performed in conjunction with medical transportation, between all points in Connecticut, from a headquarters in West Haven.

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

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

This permit may be transferred only with the approval of the department and is issued subject to compliance by the holder hereof with all motor vehicle laws of the State of Connecticut, and with such rules, regulations and orders as this department may from time to time prescribe there under.

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

**DURATIONAL LIVERY SERVICE
UNDER CONTRACT WITH LOGISTICARE, INC.
DOCKET NO. 1010-NGOV-88-L- GRANTED SEPTEMBER 14, 2011**

Metropolitan Livery, Inc. d.b.a. Metropolitan Livery is hereby permitted and authorized to operate seventeen (17) motor vehicles, having a seating capacity of ten (10) adults or less, for the provision of transportation for hire by virtue of a contract with Logisticare, Inc. from a headquarters in West Haven, Connecticut.

The authority granted in Docket No. 1010-NGOV-88-L shall be durational in nature and shall exist only for the period of time that the permit holder has a current and continuing contract in effect for the provision of service with Logisticare.

The permit holder shall notify the department of any termination of its contract with Logisticare or the cessation of the active provision of service there under. The permit holder shall file with the department on an annual basis, upon registration or re-registration of the motor vehicles authorized in this decision, a current, executed copy of the extension of said contract. Failure to file an extension of the contract, or a new executed contract with Logisticare, shall void the authority for the vehicle authorized pursuant to this contract.

This permit is not transferable and shall remain in effect until revoked by the department or until the contract under which this authority is granted has expired. 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, this 14th day of September 2011.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Judith Almeida, Esq.

Staff Attorney III

Administrative Law Unit

Bureau of Finance and Administration