



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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

Phone:

DOCKET NO. 1108-AV-88-T

RE: APPLICATION OF CHAUFFEURED LIMOUSINE SERVICE, INC. D.B.A. RED DOT TAXI
SERVICE TO OPERATE TEN (10) ADDITIONAL MOTOR VEHICLES IN TAXICAB
SERVICE WITHIN AND TO AND FROM FAIRFIELD.

FINAL DECISION

June 6, 2014

I. INTRODUCTION

A. Applicant's Proposal

By application filed on September 13, 2011, with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-97 of the Connecticut General Statutes, as amended, Chauffeured Limousine Service, Inc. D.B.A. Red Dot Taxi Service (hereinafter "applicant") with a mailing address of 569 Commerce Drive, Fairfield, Connecticut 06825 seeks authorization to operate ten (10) motor vehicles in taxicab service within and to and from the town of Fairfield.

B. Hearing Held

Pursuant to Section 13b-97(a) of the Connecticut General Statutes, as amended, a public hearing on this application was held at the Department of Transportation in Newington, Connecticut on January 7th and 29th, 2014.

Notice of the application and of the hearing to be held thereon was given to the applicant and to such other parties as required by Section 13b-97(a) of the Connecticut General Statutes, as amended. Legal notice to the public was given by publication on the department's website.

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

C. Appearances

Jeff Serlin appeared pro se on behalf of the applicant. The applicant's mailing address is 569 Commerce Drive, Fairfield, Connecticut 06825.

Ray Longo of Casino Cab Co. Inc. d.b.a Yellow Cab Co. (hereinafter "Casino Cab") was granted intervenor status in this matter. Casino Cab was represented by Gregory Kimmel, Esq. of Kimmel & Kimmel located at 9 Morgan Avenue, Norwalk, Connecticut 06851.

D. Criminal Record Check

At the hearing the applicant was requested to provide an updated criminal record check as part of the application process. The document was sent to the Regulatory Unit in the department in March 2014, but not forwarded to the hearing officer until June 6, 2014, so there was a delay in the issuance of the final decision in this matter.

II. FINDINGS OF FACT

1. The applicant seeks to operate ten (10) taxicabs in the town of Fairfield. This application was filed on September 13, 2011, but due to the fact there was an appeal pending in Fairfield, the application was placed on hold until the appeal was resolved.

2. The applicant is currently in the taxicab business in Fairfield with four (4) taxicabs granted in 2010.

3. The intervenor, Casino Cab operates three (3) taxicabs in Fairfield. Casino Cab also operates taxicabs in the Bridgeport area that can legally service Fairfield if one part of the trip begins or ends in Fairfield. Casino Cab does not have temporary authority to operate additional taxicabs intra Fairfield. Prior to purchasing the authority to operate three (3) taxicabs in Fairfield, the intervenor filed an application for additional taxicabs in Fairfield which is still pending.

4. The applicant leases taxicabs for twelve (12) hour shifts but the taxicab drivers operate the taxi as much or as little as they want during that shift.

5. The applicant had two citation hearings in 2013. The first citation in Docket Number 1304-C-228-L was against the livery company and the second citation in Docket Number 1304-C-227-T was against the taxi company. As a result of these citation hearings, the applicant received a \$1,000 civil penalty for operating vehicles marked as taxicabs in livery service with livery marker plates.

6. The intervenor submitted a photograph of a clearly marked taxicab with a taxi dome light bearing livery plate L7528L taken on January 27, 2014. This is the same vehicle that was the subject of the citation hearing in Docket Number 1304-C-228-L for which the civil penalty was assessed on September 19, 2013, for operating a taxicab with livery plates.

7. The applicant's trip records do not support the claim that there is a need for more taxicabs. The applicant supplied taxicab trip sheets from November 1, 2013 to November 7, 2013. The trip sheets show that the applicant's cars averaged 10.74 trips per shift. Since the applicant's taxis are rented for a twelve (12) hour shifts, this amounts to less than one (1) trip per hour.

8. The trip records reflect that the applicant is utilizing four (4) shifts per day out of a possible eight (8) shifts.

9. The applicant's rental agreement mandates that drivers accurately report all trips but Mr. Serlin admits his drivers under report their trips to avoid taxes.

10. Zaccar Shimeir, a driver for the company testified on the first day of hearing in support of the application. Mr. Shimeir was convicted of a felony for sale of a controlled substance in March 2013. On the second day of hearing when Mr. Serlin found out, he was unaware of this conviction or whether Mr. Shimeir still worked for his company.

11. The applicant submitted a list of refused calls recorded from April 2011 to August 2013. These sheets showed that during that time 371 calls were refused or about 12 per month.

12. Representative Kim Fawcett supports the application for an additional ten (10) taxicabs in Fairfield.

13 The applicant will utilize vehicles from its livery fleet in the proposed taxicab service. The fair market value of these vehicles ranges from \$3,586 to \$7,044.

14. The applicant's assets include \$324,906 in cash with current assets of \$913,840. The applicant's annual expenses include insurance per vehicle of \$4,277, repairs of \$1,000 per vehicle, property tax of \$327 per vehicle, communication expenses of \$31 per vehicle for equipment and \$2,500 for the communication service.

15. There are periods of time when the applicant cannot get drivers.

III. DEPARTMENT ANALYSIS

The Department of Transportation has jurisdiction over common carriers, which include each person, association, limited liability company or corporation owning or operating a taxicab in the State of Connecticut in accordance with Connecticut General Statutes Section 13b-96, as amended. The Department is authorized to prescribe regulations with respect to fares, service, operation and equipment, as it deems necessary for the convenience, protection and safety of the passengers and the public.

Pursuant to Section 13b-97(a), as amended, any person who applies for authority to operate a taxicab shall obtain from the Department a certificate of public convenience and necessity certifying that the public's convenience and necessity requires the operation of a taxicab or taxicabs for the transportation of passengers. No certificate shall be issued unless the department finds that the person is suitable to operate a taxicab service. In so doing, the department must take into consideration any convictions of the applicant under federal, state or local laws relative to safety, motor vehicle or criminal violations, the number of taxicabs to be operated under the certificate, the adequacy of the applicant's financial resources to operate the service, the adequacy of insurance coverage and safety equipment and the availability of qualified operators.

With regard to suitability, the applicant submitted an updated State Police Bureau of Identification Criminal History Form for Jeffrey Serlin which shows no criminal convictions. The applicant has only been in business since 2010 but has already received two citation hearings, one each for its taxicab and livery operation. A review of the citations reflects that the applicant was operating a taxicab with lettering and a dome light with a livery plate instead of a taxicab plate for which the applicant received a \$1,000 civil penalty. On January 27, 2014, this particular taxicab was photographed by the intervenor with the same livery license plate. The applicant has not corrected the plate situation since September 2013.

The applicant submitted the testimony of Zaccar Shimeir, a driver for the company who supported the application. It was later determined that Mr. Shimeir was convicted under Connecticut General Statute Section 21a-277(b) for Sale of a Controlled Substance, a felony and was sentenced on March 12, 2013. At the time of his testimony, Mr. Shimeir was driving the applicant's taxicab.

In response to this disturbing news, Mr. Serlin stated that he did not know that Mr. Shimeir had been convicted or even if the Mr. Shimeir was still driving for his company. The fact that he did not even know if Mr. Shimeir was driving for him, with only four (4) taxis on the road, is equally disturbing. The

know if Mr. Shimeir was driving for him, with only four (4) taxis on the road, is equally disturbing. The driver agreement submitted by the applicant calls for background checks and expresses a zero tolerance for illegal drugs. Clearly, the applicant has not been following its own policies and procedures. Based on the all of the evidence presented, the applicant has not proven its suitability to operate the proposed service.

With regard to having qualified operators, the record reflects that the applicant had difficulty getting drivers in the past. The applicant did not put on sufficient evidence to show that it has enough drivers lined up to handle the proposed ten (10) vehicles it is seeking which could amount to twenty (20) drivers if they are driving twelve hour shifts. There is adequate insurance coverage and safety equipment.

As far as the applicant's financial suitability is concerned, the applicant's assets include \$324,906 in cash with current assets of \$913,840. The applicant's annual expenses include insurance per vehicle of \$4,277, repairs of \$1,000 per vehicle, property tax of \$327 per vehicle, communication expenses of \$31 per vehicle for equipment and \$2,500 for the communication service. Based on the evidence presented, the applicant has proven its financial suitability to operate the proposed service.

With regard to proving public convenience and necessity, the applicant submitted the testimony of Representative Kim Fawcett in support of the application. The applicant's main argument is that his business has suffered because of his lack of vehicles and the fact that there are illegal taxicabs serving Fairfield. If Mr. Serlin has any proof that Casino Cab or any other company is illegally operating taxicabs in Fairfield, he should make a complaint with the Regulatory and Compliance Unit.

Mr. Serlin's argument that his trip sheets show a low volume of trips because he needs additional taxicabs is without merit. If there truly was a need for more taxicabs in Fairfield, the public would be calling the applicant for service and the trip sheets would reflect this. This is not the case.

The applicant submitted taxicab trip sheets from November 1, 2013 to November 7, 2013, a random week. The trip sheets show that the applicant's taxicabs averaged 10.74 trips per shift. The taxicabs are rented over a twelve (12) hour shift, so this amounts to less than one (1) trip per hour, per car.

The applicant has a total of four (4) taxicabs available with two (2) shifts per car, per day, totaling eight (8) shifts per day. The trip records also reflect that the applicant is utilizing an average of four (4) shifts per day out of a possible eight (8) shifts per day. This means that only half the shifts are being operated. On the week in question, there were three (3) days when only two (2) or three (3) shifts were leased. It appears that the applicant did not have enough drivers to cover each of its shifts.

The applicant's main problem seems to be that it does not have enough control over the drivers who can work as little or as much as they want to so consequently, the applicant is not adequately utilizing the vehicles he has now.

Mr. Serlin argues that his drivers do not record all of the trips on the trip sheets to avoid taxes. The applicant's driver agreement, which the drivers sign each time they lease a shift, states that each driver is to accurately record all trips. The fact that Mr. Serlin is allowing the drivers to under report trips shows that he is failing to hold the drivers accountable.

The applicant also submitted a log of refused calls from April 4, 2011 to August 21, 2013. Over this two and a half year period, the company refused 371 trips. This equates to 12.7 trips per month. If the applicant put all four (4) of its taxicabs on the road each day and operated full twelve (12) hour shifts, the applicant would easily be able to cover these twelve (12) trips per month.

The applicant is required to prove that public convenience and necessity requires a grant of the application. Much of the applicant's argument is that if he receives additional authority, the public will start calling his company again. The problem with this argument is that the proof for public convenience and necessity is current need which must be shown, not the proposed need the applicant is speaking about which may or may not occur in the future.

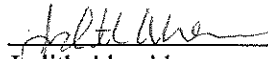
Based on the evidence presented, the applicant has not shown that there is a need for additional taxicab service or that it is suitable to operate the additional service proposed.

IV. CONCLUSION

Therefore, based upon the above and pursuant to Connecticut General Statutes Section 13b-97, as amended, the application of Chauffeured Limousine Service, Inc. D.B.A. Red Dot Taxi Service is hereby denied.

Dated at Newington, Connecticut on this 6th day of June 2014.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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