

STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION



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Phone:

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DOCKET NO. 1508-N-102-L

RE: APPLICATION OF EMERALD TRANSPORTATION TO OPERATE ONE (1) MOTOR VEHICLE, HAVING A SEATING CAPACITY OF LESS THAN ELEVEN (11) ADULTS, IN GENERAL LIVERY SERVICE BETWEEN, ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN AVON, CONNECTICUT.

FINAL DECISION

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March 14, 2016

## I. INTRODUCTION

### A. Application

By application filed on August 8, 2015 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, Emerald Transportation Services, LLC d/b/a Emerald Limousine (hereinafter "applicant") located at 40 Pine Tree Lane, Avon, Connecticut seeks authorization to operate one (1) motor vehicle, 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 Avon.

### B. Hearing

Pursuant to Connecticut General Statutes, Section 13b-103(a), as amended, a public hearing on this application was held on March 8, 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 General Statutes Section 13b-103(a)(1), as amended. Legal notice to the public was given by publication on the department website at [www.ct.gov/dot](http://www.ct.gov/dot).

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

### C. Appearances

John J. Mackey appeared on behalf of the applicant company and was represented by Michael Stone, Esq., whose mailing address is 129 Church Street, New Haven, Connecticut 06510.

Emerald Transportation Services, LLC d/b/a Emerald Limousine's address is 40 Pine Tree Lane, Avon, Connecticut 06001.

No opposition was presented to this application.

## II. FINDINGS OF FACT

1. John Mackey is a professional livery driver who drives a livery vehicle for Carey Limousine. He has driven for at least twelve years in his professional capacity. He purchased a car and formed the applicant company, under which he is fully insured. Mackey has been under contract with Carey Limousine since 2012.

2. Mackey has developed a clientele base over the years who only want Mackey to drive them because of his professionalism, timeliness, and his attention to detail.

3. The service Mackey provides is fairly local, to and from Bradley Airport and a client's home, to Harford businesses, Hartford restaurants, and nights on the town.

4. Mackey already pays for insurance on the vehicle he has as this is required by Carey Limousine. Mackey also pays for gas and the maintenance of his vehicle.

5. Mackey provided proof of cash on hand in the name of Emerald Limousine in the amount of \$10,000. The applicant has other accounts in which he keeps funds to protect against theft.

6. The applicant pays \$520 a month for insurance, including a deposit that was already paid. Six months of payment amounts to approximately \$3,000. Maintenance for six months is approximately \$1,300. The applicant owns, outright, the vehicle he will operate for the business.

7. Mackey has had to turn down work from clients for whom he has driven because he works under Carey's permit and must take those jobs first.

8. William Casazza lives in Avon and is general counsel at Aetna insurance company. He travels on a regular basis and has known the applicant for fifteen years.

9. Casazza uses the applicant exclusively for his driving and travel needs, but he finds it is more difficult to get the applicant to provide him rides because he is unavailable as a "Carey" limousine driver. Having his own permit will allow the applicant to meet the needs of certain of his personal clientele.

10. Jeffrey Ellenberg also lives in Avon and he owns Esquire Cleaners in West Hartford. Ellenberg also travels extensively for marketing purposes and he uses the applicant's services exclusively. Ellenberg likes and wants to continue using the applicant as a livery provider because of his care and professionalism.

11. Casazza and Ellenberg both have recommended the applicant to their peers and colleagues.

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12. The applicant has no criminal conviction history.

13. The applicant will not incur further expense in operating his business because he currently pays all of the expenses of the business working for Carey.

14. Having his own permit will allow Mackey the flexibility to continue to provide livery services for his current clients.

### 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. Some factors to consider relative to public convenience and necessity include whether the service will benefit the relevant class of users, whether the proposed service is more efficient, more economical, more convenience, more satisfactory, or different than the services offered by existing service providers. To be further considered is whether the new service would create a potentially beneficial effect upon the rates and customer service, 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; and whether potential customers have requested a service like that suggested by the applicant, and lastly, whether the proposed service will improve the existing mode of transportation. *Steve Martorelli v. Department of Transportation, 316 Conn. 538 (2015)*.

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 General Statutes Section 13b-103.

The applicant in this matter is currently operating as a subcontractor under the permit of another livery company. He has been providing livery services for over 12 years. As a livery provider, he has established a clientele who seeks to use his livery service exclusively. The applicant finds it difficult to provide livery services to his own clientele when working for Carey, as he has to service those clients first. The applicant's clients would like to use the applicant exclusively because of Mackey's professionalism, courtesy, and promptness, and because of the care he shows to his clients. The witnesses who testified at the hearing stated that it was becoming increasingly difficult to get the applicant to provide them livery service because he was busy providing livery service under the Carey permit to Carey clients. Approval of this permit would provide these witnesses, and others, the ability to use the applicant more exclusively.

The applicant possesses the financial wherewithal to operate the proposed service. The applicant currently pays all of his expenses when operating for Carey Limousine, so that the applicant would not be expending additional monies to operate the business under his own permit.

Lastly, because the applicant currently operates as a subcontractor, and has been so operating for the past at least 12 years, and he has done so without problems, without citations, and in an efficient manner, he possesses the willingness and ability to operate the proposed business under his own permit. No negative evidence was presented on the record showing that the applicant is not suitable to operate the proposed service.

#### IV. CONCLUSION OF LAW

Emerald Transportation Services, LLC d/b/a Emerald Limousine possesses the suitability to operate the proposed service, the financial wherewithal to operate the proposed service, and the evidence shows that the public convenience and necessity will be improved by a grant of this authority, in accordance with Connecticut General Statutes Section 13b-103 and *Steve Martorelli v. Department of Transportation, 316 Conn. 538 (2015)*.

V. ORDER

Based upon the above and pursuant to Connecticut General Statutes Section 13b-103 and *Steve Martorelli v. Department of Transportation, 316 Conn. 538 (2015)*, the application of Emerald Transportation Services, LLC d/b/a Emerald Limousine is hereby granted and Permit Number 3529 is hereby issued as follows:

LIVERY PERMIT NO. 3529  
FOR THE OPERATION OF LIVERY SERVICE

Emerald Transportation Services, LLC d/b/a Emerald Limousine is hereby permitted and authorized to operate ONE (1) motor vehicle having a seating capacity of less than eleven (11) adults in GENERAL LIVERY SERVICE between all points in Connecticut from a headquarters in Avon, Connecticut.

This Permit may not be sold or transferred until it has been operational, i.e., a vehicle registered with the livery plates thereunder, for not less than twenty-four (24) consecutive 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 the rules, regulations and orders of the Department shall be considered sufficient cause to amend, suspend or revoke this Permit.

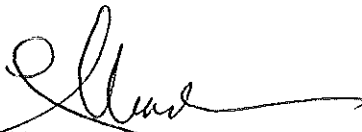
This Permit is transferable only with the approval of the Department and is issued subject to compliance by the holder hereof with all motor vehicle laws of the State of Connecticut, and with such rules, regulations and orders as this Department may from time to time prescribe.

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

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Dated at Newington, Connecticut on this 14<sup>th</sup> day of March 2016.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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Laila A. Mandour  
Staff Attorney III  
Administrative Law Unit  
Bureau of Finance and Administration