

STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION



OFFICE OF RESEARCH AND MATERIALS  
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DOCKET NO. 0604-N-29-L

RE: APPLICATION OF DON AND MOE'S PRIVATE LIMOUSINE, LLC TO OPERATE TWO (2) MOTOR VEHICLES HAVING A SEATING CAPACITY TEN (10) ADULTS OR LESS, IN GENERAL LIVERY SERVICE BETWEEN, ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN DANBURY.

FINAL DECISION

April 16, 2007

## I. INTRODUCTION

### A. Application

By application filed on April 3, 2006 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, Don and Moe's Private Limousine, LLC (hereinafter "applicant") located at 2 Three Partners Road, Danbury, Connecticut seeks authorization to operate two (2) motor vehicles, having a seating capacity of ten (10) adults or less, in general livery service between all points in Connecticut from a headquarters in the city of Danbury.

### B. Hearing

Pursuant to Connecticut General Statutes, Section 13b-103(a), as amended, a public hearing on this application was held on March 1, 2007.

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 in the News Times, a newspaper having a circulation in the area of concern.

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

### C. Appearances

Suzanne Garofola and Richard Garofola, office manager and member, respectively, appeared on behalf of the applicant, without counsel. The applicant's address is 2 Three Partners Road, Danbury, Connecticut.

Sheldon Lubin, utilities examiner with the Regulatory and Compliance Unit, was present at the hearing.

No opposition was presented to the application.

## II. FINDINGS OF FACT

1. The applicant is holder of livery permit number 3056 which is the registration of interstate authority as issued by the Federal Motor Carrier Safety Administration Authority in Certificate No. MC 532662 and which was issued on October 12, 2005.

2. The applicant currently operates three vehicles in interstate livery service, to and from out-of-state airports.
3. The applicant maintained cash on hand of between \$8,000 and \$11,000 since February 2007.
4. The applicant's had total sales in 2006 of \$106,829, with an income of \$108.
5. The estimated annual fuel costs are \$16,000 and annual repairs and maintenance are estimated at \$12,000.
6. The annual property tax for the applicant's vehicles is \$975.
7. The applicant owes approximately \$5,000 on the loan from the original owner for purchase of the business and \$400 per month for a car loan.
8. The applicant pays \$1,200 per month for ten months for insurance.
9. The manager of the applicant has no criminal conviction, nor is he involved in any criminal activity.
10. Several of the applicant's clients would like to use the applicant's services within the state of Connecticut.
11. Since January 1, 2007, the applicant has logged most of the calls that it received for intrastate livery service.
12. Since January 1, 2007, the applicant turned away approximately 20 requests for livery service from point to point within Connecticut.

### III. DISCUSSION AND CONCLUSIONS OF LAW

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 present and future 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

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.

In support of suitability, the applicant presented an updated criminal conviction report for the managing member of the company, Richard Garofola, which shows no record. Further, Garofola testified that he has been in business as an interstate provider for almost two years and has had no citations or problems operating that service. Accordingly, the applicant is suitable to operate the proposed service.

In support of financial wherewithal, the applicant submitted into evidence its financial information. The balance sheet shows that the applicant's bank account for February and March show a cash balance in the amount of \$8,000 and \$11,000. The applicant's financial records show that sales in 2006 totaled \$106,829 and that income was \$108. The applicant must show financial resources to operate the requested vehicles for a start up period of six months. This applicant has many bills and expenditures that minimize the amount of available funds to operate the two requested vehicles for a start up period of six months. Based on the financial evidence, if the applicant were a new company, with no vehicles in use at all, the applicant would be suitable to operate only one vehicle.

However, in this case, the applicant is currently operating three vehicles in interstate livery service. Two of the vehicles the applicant would like to use in intrastate livery service are currently insured and maintained, thus the output of expenses will be minimal. Therefore, because the applicant has its vehicles already in service and due to the minimal expense it would cost the applicant to operate its vehicles in intrastate livery service, it is reasonable to conclude that the applicant possesses the financial wherewithal to operate the proposed two vehicles in intrastate livery service.

Lastly, the applicant must prove that the present and future public convenience and necessity will be improved by a grant of the proposed service. In support of this element, the applicant provided the testimony of the member and office manager, who both testified that they have built an interstate clientele over the past two years and that several of their clients have consistently requested rides within the state of Connecticut. The applicant declines requests for intrastate rides each month. Suzanne Garofola, the office manager, testified that she takes reservations for the company and has kept a list of people who have requested intrastate livery since January 1, 2007 to the date of hearing. The applicant declined approximately twenty calls over a two month period.

Although the applicant entered into evidence several support letters, these letters are given little weight as their signatories are not present for cross-examination. See Norwalk Yellow Cab, Inc. v. Department of Transportation et al, Hartford/New Britain

See Norwalk Yellow Cab, Inc. v. Department of Transportation et al, Hartford/New Britain J.D. at Hartford, (Docket No. CV-93-0704676S) July 6, 1994.

The evidence is uncontroverted, albeit by the owner and office manager, that the applicant has a clientele that uses the applicant's services for interstate livery transportation. Some of these clients, in addition to the general public, have expressed to the applicant interest in using the applicant for instate livery service. It follows logically that if a client is with a company and likes its service, the client would most likely want to use the company for all its transportation needs.

It appears from the evidence that the applicant averaged twenty calls for two months. Broken down monthly, the applicant would have about ten calls per month. One vehicle would be able to provide for ten calls per month. If, however, a client has the need for more than one vehicle, it would be unable to use the applicant's services. Based on the above, the evidence supports a conclusion that the present and future public convenience and necessity will be improved by a grant of authority for two vehicles in intrastate livery service.

In its totality, the evidence shows that the applicant possesses the financial wherewithal and the suitability to operate the proposed service and in addition, the present and future public convenience and necessity will be improved by a grant of authority for intrastate livery service, in accordance with Connecticut General Statutes Section 13b-103, et seq.

#### IV. ORDER

Pursuant to Connecticut General Statutes Section 13b-103, as amended, the application of Don and Moe's Private Limousine, LLC is hereby granted and Permit Number 3056, standing in the name of Don and Moe's Private Limousine, LLC is hereby amended and reissued as follows:

#### LIVERY PERMIT NO. 3056 FOR THE OPERATION OF LIVERY SERVICE

Don and Moe's Private Limousine, LLC. is hereby permitted and authorized to operate TWO (2) motor vehicles, having a seating capacity of less than ten (10) adults, in GENERAL LIVERY SERVICE between all points in Connecticut from a headquarters in Danbury, Connecticut.

Don and Moe's Private Limousine, LLC is further permitted and authorized to operate motor vehicles as a common carrier of passengers, in charter and special operations, in interstate commerce under such authorization as issued or amended by the Federal Motor Carrier Safety Administration in the issuance of Certificate No. MC-532662.

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.

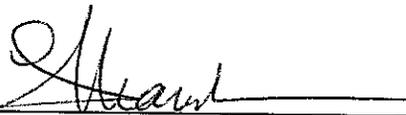
This Permit shall remain in effect until it is amended, suspended or revoked by the Department. Failure of the Permit holder to maintain proper insurance and/or comply with all pertinent motor vehicle laws and other State statutes and/or the rules, regulations and orders of the Department shall be considered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

Dated at Newington, Connecticut, this 16<sup>th</sup> day of April 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION

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