



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

Phone:

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DOCKET NO. 0610-N-11-T

RE: APPLICATION OF INDEPENDENT TAXICAB COMPANY, INC. TO
OPERATE TWENTY-FOUR (24) MOTOR VEHICLES, IN TAXICAB
SERVICE, WITHIN AND TO AND FROM STAMFORD TO ALL POINTS
IN CONNECTICUT.

FINAL DECISION

April 5, 2007

I. INTRODUCTION

A. Application

By application filed on October 24, 2006, with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-97 of the Connecticut General Statutes as amended, Independent Taxi Cab Co., Inc. (hereinafter "applicant") with a mailing address of 1253 High Ridge Road, Stamford, Connecticut, seeks authorization to operate twenty-four (24) motor vehicles in taxicab service, within and to and from the city of Stamford to all points in Connecticut.

B. Hearing

Pursuant to Section 13b-97(a) of the General Statutes, as amended, a public hearing on this application was held at the Stamford Government Center, 888 Washington Boulevard, Stamford Connecticut on November 20, 2006 and at the administrative offices of the Department in Newington, Connecticut, on December 21, 2006.

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 General Statutes, as amended. Legal notice to the public was given by publication in the Stamford Advocate, a newspaper having circulation in the area of concern.

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

Briefs by the parties/intervenors were due and timely submitted on February 1, 2007, the receipt of which by the department closed the record.

C. Appearances

Independent Taxi Cab Co., Inc. appeared through its president, Alfredo Gerard Vilsaint, and was represented by Daniel A. Benjamin, Esq. and Elizabeth Boyer, Esq. of the law firm of Benjamin & Gold, P.C., whose mailing address is 350 Bedford Street, Ste. 403, Stamford, Connecticut.

Stamford Yellow Cab, Inc. dba Eveready Stamford (Eveready Stamford) appeared through its owner, Vito Bochicchio, and was represented by Eugene M. Kimmel, Esq. of the law firm of Kimmel & Kimmel, LLC, whose mailing address is Nine Morgan Avenue, P.O. Box 2013, Norwalk, Connecticut.

Sheldon Lubin, staff of the regulatory and compliance unit, attended the hearing.

D. Official Notice

Official notice was taken of the following:

RE: Application Of Stamford Yellow Cab, Inc. To Operate Three (3) Additional Motor Vehicles In Taxicab Service Within And To And From Stamford To All Points In Connecticut, Department of Transportation Final Decision, Docket No. 9704-AV-11-T (November 1, 1997).

RE: Application Of Stamford Yellow Cab, Inc. To Operate Ten (10) Motor Vehicles In Taxicab Service Within And To And From Stamford To All Points In Connecticut, Department of Transportation Final Decision, Docket No. 9511-AV-26-T (August 27, 1996).

RE: Application Of A Cab Company, Inc. D.B.A. A Cab Company To Operate Thirty-Three (33) Motor Vehicles In Taxicab Service Within And To And From Bethel, Bridgewater, Brookfield, Danbury, New Fairfield, New Milford, Newton, Redding, Ridgefield And Sherman To All Points In Connecticut, Department of Transportation Final Decision, Docket No. 9508-N-21-T (February 1, 1996).

RE: Application Of Vito Bochicchio, Jr. & David L. Carino D.B.A. Eveready Cab Company Of Stamford Seeks To Operate Thirty (30) Motor Vehicles In Taxicab Service Within And To And From Stamford To All Points In Connecticut, Department of Transportation Final Decision, Docket No. 9405-N-25-T (November 6, 1996).

RE: Petition Of The Department Of Transportation, Office of Rail, To Increase The Taxicab Metered Rates Of Fare And The Shared-Ride Rates For Taxicab Transportation Originating At The Steward B. McKinney Transportation Center By Assessing A Two-Dollar (\$2) Surcharge Per Trip And A Request From Stamford Yellow Cab, Inc. dba Eveready Stamford to Increase the Taxicab Metered Rates of Fare and the Shared-Ride Rates Of Fare For The City Of Stamford, Department of Transportation Final Decision, Docket No. 0307-R-11-T (November 3, 2003).

RE: Application Of Independent Taxi Cab Co., Inc. To Operate Twenty-Four (24) Motor Vehicles In Taxicab Service Within And To And From Stamford To All Points In Connecticut, Department of Transportation Final Decision, Docket No. 0311-N-27-T (April 6, 2006).

Vito Bochicchio owns Stamford Yellow Cab, Inc. dba Eveready Stamford, holder of certificate number 1065, and has authority for 30 taxicabs within and to and from Stamford.

Della Famiglia, Inc. dba Stamford Taxi, holder of certificate number 223, operates 54 taxicabs within and to and from Stamford.

Correspondence dated July 18, 2006 from L. Brian Castler, Bureau Chief, Bureau of Finance and Administration to Daniel A. Benjamin, Esquire, Benjamin & Gold, P.C. indicating that a hearing de novo would be held for the applicant.

II. FINDINGS OF FACT

Based on the entire record, the following facts are found:

1. The applicant, Independent Taxi Cab Company, Inc., seeks authority to operate twenty-four (24) taxicabs within and to and from Stamford to all points in Connecticut.

2. Alfredo Gerard Vilsaint, the owner of the applicant company, also owns On Time Limousine, a livery company. On Time Limousine provides interstate livery and livery under contract with, or a lower tier contract for, a federal, state or municipal agency.

3. Vilsaint has approximately 27 years of experience in the taxicab business. Vilsaint drove for Stamford Taxi for approximately three years until March 2006.

4. There are currently three taxicab companies in Stamford that provide taxicab service. Della Famiglia, Inc. dba Stamford Taxi, holder of certificate number 223 operates 54 taxicabs, Stamford Yellow Cab Co, Inc. dba Eveready Stamford, holder of certificate number 1065, operates 30 taxicabs and USA Taxi & Limousine of Stamford, Inc., holder of certificate number 1182 operates 10 taxicabs, all within and to and from Stamford.

5. Vilsaint will not use the livery vehicles in his livery business as taxicabs. The applicant intends to purchase two vehicles to use in the taxicab business.

6. The remaining taxicabs will be owner-operated. The owner-operators will pay for all operating expenses except insurance, which the applicant will pay for.

7. The applicant will charge a weekly lease fee of \$340 - \$350.

8. Vilsaint has an extensive list of people who would like to drive for the applicant if offered an opportunity to do so.

9. The applicant's estimated annual insurance premium will cost approximately \$5,042 per vehicle.

10. Lloyd Mellad, owner of other transportation businesses will provide dispatching services, at a cost of \$0.50 per call, with a cap at \$1000 per week.

11. Mellad will provide consulting services to the applicant at a cost of \$300 per week, for twelve weeks.

12. The applicant's business plan includes securing agreements with different businesses in Stamford to allow the applicant's taxicabs to wait at those selected businesses so that the taxicabs are not waiting at the train station and are more accessible to the public. The businesses that the applicant's management has spoken to or intends to speak to include Dunkin Donuts, A & P, Courtyard by Marriott, Sheraton, South End Community Center and a club establishment.

13. The estimated expenses for the vehicles that the applicant will purchase include \$200 per month for gasoline, \$100 per month for repairs and maintenance and \$16 per month for property taxes for a total of \$316.

14. Vilsaint has a cash balance in the amount of \$56,000 in his and his wife's name. Vilsaint has a cash balance in the amount of \$16,667 in his and his daughter's name. Vilsaint maintains a total cash balance available to the applicant of, at minimum, \$36,428, half of the \$72,857 that he holds in his name with others.

15. The applicant does not have a bank account in its name.

16. The applicant has a letter of credit, in its name, in the amount of \$75,000.

17. Todd Lindvall is the general manager of the Courtyard by Marriott in Stamford. Prior to his tenure at the Courtyard by Marriott, he was with the Marriott in Stamford for five years. Courtyard by Marriott has daily problems getting taxicabs and/or getting polite drivers and dispatchers. Often the waiting time for a taxicabs is over one half hour and sometimes taxicabs don't show up at all. Courtyard by Marriott has a list of all the taxicab companies in Stamford that they call on a rotating basis. Courtyard by Marriott purchased several vehicles to use for transporting the hotel's clientele due to the lack of reliable taxicab service in Stamford.

18. Julia Wade has known the owner of the applicant for approximately two years through her position as a volunteer coordinator for the Stamford democrats. Wade was involved with two situations where she called a taxicab that never showed up and where she shuttled her neighbors because their taxicab did not show up – she is unsure of the date and time of these occurrences.

19. Richard Lyons, who represents the 1st District in Stamford, has received many complaints regarding the lack of taxicab promptness, staging, dispatching methods and the level of taxicabs and accessibility of taxicabs in downtown Stamford from constituents, non-constituents, residents and visitors.

20. Two weeks prior to the hearing, Lyons requested a taxicab from Stamford Taxi and the taxicab was half an hour late. Lyons called the company to complain; Lyons was going to the train station, two and a half miles from his home.

21. Mirlande Cassagnol works for St. Luke's Lifeworks, a family housing program in Stamford. She calls all three taxicab companies for the program clients several times a day. She has observed that taxicabs in Stamford have been over an hour late or do not respond to calls made. She has transported clients in St. Luke's Lifeworks vehicle to ensure that the clients are not late to work or to their appointments.

22. Taxicabs are not a reasonable alternative to the transportation problems facing seniors in Stamford because the cost is prohibitive. Seniors in Stamford use taxicabs in emergency situations and where there is no alternative transportation.

23. Richard Redniss, a land use planner in Stamford, is familiar with the zoning laws for the city of Stamford and with transportation issues, including parking and traffic with respect to downtown Stamford. He has appeared regarding issues related to land use before several boards in Stamford.

24. Over the past 20 years, Redniss has drafted regulations to reduce/share parking requirements in Stamford; in that regard, Redniss has worked with Stamford local government on managing parking and managing traffic concerns by reducing parking within the downtown area of Stamford.

25. Redniss made a study of anticipated growth in Stamford since January 2005. Although there has been recent growth in Stamford, the majority of residential and commercial growth, at date of hearing, is proposed or approved, but not yet built and completion is estimated within three to five years.

26. Several taxicab drivers are in favor of another taxicab company in Stamford. Those taxicab drivers had worked for the intervenor company and had been terminated.

27. One taxicab driver spoke in favor of another taxicab company in Stamford. That taxicab driver works for a Stamford taxicab company that has applied for additional taxicabs in Stamford.

28. No criminal action was taken against Vilsaint as a result of an insufficient check written in 2005.

29. Vilsaint has a criminal incident over 10 years old and one in 2005 which was a domestic disturbance.

30. Final Decision in the Application of Independent Taxi Co., Inc. dated 0311-N-27-T was not repealed or vacated by the superior court.

III. DISCUSSION

The Department of Transportation has jurisdiction over common carriers, which includes 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.

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, after giving due consideration to, at a minimum, 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.

In support of suitability, the applicant has shown that it will have adequate insurance and financial resources to operate the proposed business. The evidence is uncontroverted that the applicant's management, Alfredo Gerard Vilsaint, is aware of several people who would be willing to drive for Independent Taxi Co., Inc. The applicant received insurance estimates for the vehicles that would be used in the proposed business. Vilsaint also testified that he would purchase two vehicles and would use owner operators for the remaining vehicles. The taxicabs that would be proposed for service would be inspected prior to being put into service in accordance with the provisions of Section 13b-99 of the Connecticut General Statutes.

In addition to the above, to be found suitable, the applicant must also prove that its management has the suitability to operate the proposed business. At the outset, the Gerard Vilsaint has owned the limousine company, for several years, without incident. Vilsaint has approximately 27 years of experience as a taxicab driver and last drove a taxicab for Stamford Taxi for three years to 2006. The applicant has a business plan that he intends to implement and the evidence shows that Vilsaint, as the owner/manager of the proposed business, has the willingness and ability to operate the proposed business within the requirements of the statutes governing taxicab operation and the rules and regulations of the department.

Notwithstanding the above, the record reveals that Vilsaint, the applicant's owner/manager, had two criminal incidents; one in 1995 and one in 2005. Regulations of Connecticut State Agencies Section 13b-96-7 requires the disclosure of a "serious criminal offense criminal conviction within 10 years" of a current application filed with the department. Since the 1995 incident took place over 10 years from the filing of the instant application, Vilsaint was not required to list the 1995 incident on his application and the incident will not be held against the applicant in determining suitability.

The applicant's 2005 incident, also listed on the criminal conviction form, was a domestic dispute wherein Vilsaint was dealing with his teen-aged daughter. Regulations of Connecticut State Agencies Section 13b-96-7 allows the department to waive this provision with a showing of good cause. The charge was a misdemeanor and did not cause imminent threat to the public. Moreover, there have been no incidents since the arrest, which was resolved with a fine and no incarceration. Based on the above, the misdemeanor conviction will be waived and will not be held against the applicant's suitability.

In addition, the record shows that Vilsaint wrote a check to the department of transportation which was drawn on insufficient funds. Vilsaint testified that his checkbook had been stolen and he did not know that his account did not have sufficient funds. He paid the check as soon as he found out from department personnel that the check had been returned. The facts surrounding the reasons that the funds were insufficient are unclear, however, the record shows that the department accepted late payment on the check and honored the application that Vilsaint submitted with the check. No criminal action was taken as a result.

Lastly, information was elicited by the intervenor that Vilsaint's operator's license was suspended. Vilsaint testified that he received a traffic ticket that he paid in New York but because his address had changed, the payment did not correspond with his license, resulting in the suspension of his license. Vilsaint provided proof of payment to the Department of Motor Vehicles, corrected his address and his license was reinstated, as indicated on his application.

In addition to suitability to operate the proposed service, the applicant must prove that the public convenience and necessity requires the operation of a taxicab or taxicabs for the transportation of passengers. Several witnesses testified in support of public convenience and necessity. Perhaps the most compelling witness in support of the new company was Mirlande Cassagnol, who works for St. Luke's Lifeworks. Cassagnol testified that she has seen mothers waiting in the lobby of the facility for taxicabs requested by her and her clients. She stated that she makes several calls per day to the three companies for a taxicab for her clients, however, the taxicabs do not respond in a timely manner, sometimes resulting a waiting time of over an hour, if the taxicabs respond at all.

Richard Lyons, a representative for the 1st District of Stamford, testified that he has fielded many complaints regarding taxicab service. Lyons, as a representative of the residents and visitors of Stamford, holds a position that most exposes him to the concerns of the public. Because of the complaints he received he supports the increase in taxicabs in Stamford. This will ensure that Stamford residents and visitors have access to a taxicab transportation system that responds to the people in a timely and polite manner.

Several other witnesses appeared at the local hearing to lodge their

complaints with the current taxicab service in Stamford. While some of the witnesses testified that they thought there were only two taxicab companies operating in Stamford, other witnesses testified that they had called all three companies for taxicab service in Stamford. Whether there are two or three taxicab companies in Stamford, it appears that something is very wrong with the present service being provided and that the status quo cannot remain the same relative to the availability of taxicabs. Although the department, in prior decisions has established that a reasonable waiting time standard is 20 minutes, the testimony indicates that people in Stamford have to wait more than an hour and sometimes, taxicabs that are already established in Stamford do not show up at all.

The owners of Stamford Taxi and Stamford Yellow Cab, Inc. dba Eveready Stamford, and some of the drivers for these companies, testified that they believed that a new company would diminish their calls and their income. These are witnesses who have a vested interest in their companies being the only taxicab companies in the area of concern. It can be concluded that the opposition does not want to see new companies enter into the market as competition. However, competition against existing companies is not an issue to be factored in the determination of public convenience and necessity.

Marc Nicatera, one of the owners of Stamford Taxi testified that prior to 2005, with the advent of USA Taxi in Stamford, the number of calls were higher than they are now; he indicated that he thought the calls diminished by 10%. However, no records were introduced to support these statements. Moreover, the fact that the existing companies' business decreased is not dispositive that the decrease is due to the establishment of a new taxicab company in town. Perhaps the decrease is due to poor service and unresponsive taxicab companies. Providing service that is less than acceptable, where there is no alternative, makes for unhappy customers and worse, makes the taxicab riding public turn to alternative means of transportation; such a situation occurred where the Marriott purchased vans to transport their customers and where employees of St. Luke's Lifeworks provide rides to their clients with the company car due to poor taxicab service. A new taxicab company would hopefully provide better service than is presently available and might, in addition, force the current companies to improve their service to the public.

It is to the benefit of the other taxicab providers in Stamford to oppose any new taxicab businesses in the same town since to do so would ensure that the work remain with the existing companies, even in the face of poor service. The testimony of the opposing companies' management/ownership is given less weight and credibility for the reasons mentioned above.

The evidence is uncontroverted that Stamford is growing and that new businesses have been established in Stamford. Richard Redniss, a land use planner, testified to several new establishments, housing complexes and businesses have begun in Stamford over the past several years, however, he also testified that many of the businesses and housing projects will take approximately 3 to 5 years to complete. Based on this information, it is reasonable to conclude that while the current taxicab market in

Stamford is not responsive enough to the public, public convenience and necessity does not require as many as twenty-four taxicabs currently.

The applicant introduced into evidence several letters and attestations of support. The letters and attestations are given little weight as their signatories were not present at the hearing for cross-examination. 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 opposition further argues that the approval for additional taxicab authority in Stamford would diminish the quality of taxicab drivers and the earning capacity of the established companies. Bocchicchio testified that the applicant's management will not have control over those taxicab drivers who will be required to wait at pre-determined areas because they are owner-operators. These arguments are without merit. A taxicab owner does not have to lease to those who do not work in the best interest of the public. Further, Sections 13b-96 through 13b-99 of the General Statutes do not contemplate the effect of new companies or additional vehicles upon existing taxicab services.

The intervenor entered into evidence statistics from the company that operates the starter system for taxicabs at the train station in Stamford. One set of statistics was collected in November 2003. The other set of statistics is for November 2006. Neither of these sets of statistics are helpful in assisting in the determination of public convenience and necessity because the applicant's management testified to the fact that the proposed service will focus on providing taxicab service throughout the town and that the taxicabs will not be waiting at the train station, thus taking into consideration other than train station requests. Therefore, these statistics are given little weight.

Independent Taxi Company, Inc. has made application for twenty-four taxicabs. The testimony and evidence presented does not support a full grant of twenty-four vehicles. Vilsaint testified that he intends to stage vehicles around the city, and not at the train station, to ensure that the public has access to taxicabs across the town. Vilsaint testified to six establishments that he has spoken to or will speak to for an agreement to permit the taxicabs to wait for fares at the subject establishments. Based on this evidence, a partial grant will be made to accommodate the applicant staging a taxicab at six establishments around Stamford. Should the applicant find there is a need for additional taxicabs, it may file an application for additional taxicabs in the future.

Finally, the applicant must prove that it possesses the financial wherewithal to operate the proposed service. At the outset, it is noted that the applicant does not have a bank account in its name. Such an account will have to be established prior to registration if authority is granted. The applicant submitted the requisite balance sheet for the company. In addition, the applicant provided proof of a line of credit in the amount of \$75,000 available to the applicant until the end of 2007.

Alfredo Gerard Vilsaint provided proof of cash in the total amount of \$173,785, which includes the \$75,000 line of credit. The additional funds come from equity in the amount of \$25,995 from a house that Vilsaint owns with his wife. The applicant claimed the availability of cash in the amount of \$72,858, which represents \$16,667 in the name of Vilsaint and his daughter and \$56,189 held in the name of Vilsaint and his wife. The value of the cash assets will be reduced by half since Vilsaint's daughter and wife have rights to half of the cash available and no documentary evidence or testimony was introduced to show that Vilsaint's daughter and wife pledge their portion of the cash to the applicant. Similarly, half of the equity in the house is available to the applicant in the amount of \$12,997. Accordingly, the applicant has assets available for its use in the amount of \$36,429 in addition to the line of credit for a total of \$124,426

The applicant's operating costs for approximately 6 months for six vehicles, determined herein to be required by Stamford's public convenience and necessity includes the applicant's expenses of mortgage at a cost of \$23,824, insurance at a cost of \$15,126, operating expenses (for the company owned two vehicles) at a cost of \$3,792, management salary in the amount of \$26,000 and consulting fees at the cost of \$3,600, for a total of \$72,342, leaving the applicant excess funds in the approximate amount of \$52,084.

IV. CONCLUSIONS OF LAW

Based on the evidence of record, the public convenience and necessity in Stamford requires the operation of six (6) taxicabs for the transportation of passengers within and to and from Stamford. Independent Taxi Co., Inc. possesses the suitability and financial wherewithal to operate the proposed taxicab service, in accordance with Connecticut General Statutes Section 13b-97(a).

V. ORDER

The application of Independent Taxi Cab Co., Inc. is approved, in part, and a certificate of public convenience and necessity is hereby issued in accordance with Connecticut General Statutes Section 13b-97 (a), as amended, as follows:

TAXICAB CERTIFICATE NO. 1200 **FOR THE OPERATION OF MOTOR VEHICLES IN TAXICAB SERVICE**

Independent Taxi Company, Inc. of Stamford, Connecticut, is hereby permitted and authorized to operate SIX (6) motor vehicles, in taxicab service, within and to and from Stamford to all points in Connecticut.

CONDITIONS PRECEDENT:

Prior to registering any vehicles, a bank account in the name of

Independent Taxi Co., Inc. shall be established for the operation of the company in the amount required for start-up costs for the company for six months. Proof of said account shall be provided to the department within 15 days of the date of the final decision. Therefore, Independent Cab Co., Inc. must register its vehicles within 30 days of the establishment of the applicant's bank account.

RESTRICTIONS

This certificate may not be sold or transferred until it has been operational, i.e., a vehicle registered with a taxi plate thereunder, for not less than twenty-four (24) consecutive months. This certificate is transferable only with the approval of the department.

This certificate shall remain in effect until it is amended, suspended or revoked by the department. Failure of the certificate holder to maintain proper insurance and/or to 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 certificate.

This certificate 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.

Dated at Newington, Connecticut, on this 5th day of April 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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