

File

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. 0612-N-117-L

RE: APPLICATION OF ANYTIME LIMOUSINE SERVICE, 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 STAMFORD, CONNECTICUT.

FINAL DECISION

November 6, 2007

I. INTRODUCTION

A. Application

By application filed on December 11, 2006 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, Anytime Limousine Service, LLC (hereinafter "applicant") located at 2416 High Ridge Road, Stamford, 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 Stamford, Connecticut.

B. Hearing

Pursuant to Connecticut General Statutes, Section 13b-103(a), as amended, a public hearing on this application was held on September 25, 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 Stamford Advocate, 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

Anytime Limousine Service, LLC, whose mailing address is 2416 High Ridge Road, Stamford, Connecticut, appeared through its member, Withny Milburn. Anytime Limousine Service, LLC was represented by Albert J. Barr, Esq. of the law firm of Barr & LaCava, whose mailing address is 22 Fifth Street, Stamford, Connecticut.

Sheldon Lubin, utilities examiner, was present at the hearing.

No opposition was presented to the application.

II. FINDINGS OF FACT

1. On August 7, 2006 the applicant applied for and received, without incident, authority to operate vehicles as a common carrier of passengers, in charter and special operations in interstate commerce, as issued by the Federal Motor Carrier Safety Administration.

2. Withny Milburn, the applicant's member, worked as a driver for five years

for a livery company in Stamford.

3. Milburn has been operating the applicant company in interstate commerce since it received its authority in August 2006.

4. The applicant has had no citations issued against its operation.

5. Milburn has a criminal conviction history of a misdemeanor assault charge which was a domestic situation and which was resolved with probation, now completed. Milburn has had no other incident relative to criminal activity.

6. The applicant has a current client base that can only use the applicant's services for interstate travel.

7. Several members of the applicant's current client base seeks to use the applicant's livery services for intrastate travel.

8. The applicant receives an average of fifteen requests for intrastate livery service within a week. The applicant either refers the calls to other providers or turns down the calls for intrastate service.

9. Some of the applicant's clients have been unable to reserve other livery services for intrastate trips.

10. The applicant has two vehicles registered for interstate livery services.

11. If the applicant receives authority to operate intrastate livery, it will register and put into service two additional vehicles, one which Milburn has already purchased and uses personally, and a stretch limousine.

12. In August 2007 the applicant had a beginning bank balance of \$612.61. The ending and highest balance was \$8,609.18. The average balance was \$977.52.

13. No opposition was presented 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 thereunder, in accordance with General Statutes Section 13b-103.

In support of suitability, Withny J. Milburn, the only member of the applicant company, presented testimony that he gained experience in providing livery service when he worked for a livery company for approximately five years prior to beginning the applicant company. Milburn has been operating the applicant company since August 2006. Under his supervision/operation, the applicant has not received any citations or violations of any kind, has had the willingness and ability to conform to the statutes and regulations and will continue to do so. The company has been working without incident.

Milburn also included in his application a statement that he was the subject of an assault conviction in 2001. Milburn testified that this incident was the result of a domestic dispute and that the matter was resolved by probation for three years. Milburn has been involved in no other criminal activity. Milburn's testimony regarding the conviction and resolution is supported by the requisite criminal conviction history required for an application for livery service. Milburn completed the probationary period with no incident and has had no further issues. Based on the fact that the incident was remote in time, was a domestic dispute that was resolved without incident and no evidence to the contrary was presented, the matter will not be held against the suitability of the applicant's management to operate the proposed intrastate service.

In support of financial wherewithal, the applicant presented a balance sheet dated December 1, 2006 and revised on February 5, 2007 with the following information: The applicant has several automobile loans, including a 2001 Lincoln loan which cost \$10,661.48 on October 24, 2006. It has been financed by Ford Motor Credit. As of October 8, 2007 the balance was \$1,213.06. The monthly payment is \$600 a month to be paid of December 9, 2007. The interest rate is 4.9%. The applicant's second loan is for a 2007 Expedition, which cost \$47,000.01 on January 18, 2007. It is financed by Capital One over five years at 7%. As of September 25, 2007 the payoff balance was \$42,745.24. The monthly payment is \$913.51. Lastly, the applicant has a 2006 Lincoln which cost \$41,412.50 on July 20, 2006. It is financed with the Stamford Federal Credit Union at 5% over four years. As of September 26, 2007 the payoff amount was \$26,369.82. The monthly payment is \$850.50.

The applicant's August 2007 bank statement was presented and showed a beginning balance of \$612.61. The ending and highest balance was \$8,609.18 and the average balance was \$977.52.

The applicant has been in business providing interstate service for a year. Since the applicant is already in business with two vehicles, the applicant's expansion into providing intrastate livery service will translate into minimal additional cost.

Lastly, in support of the element of improving the public's convenience and necessity, two witnesses testified that they are current clients of the applicant. Each witness testified that she/he has attempted in the past to have the applicant provide him/her with transportation locally within Connecticut. The applicant's management has declined to provide transportation because the applicant did not hold such authority. Although the applicant's customers were referred to other livery providers, the clients were unable to get service, so they had to rely on friends or relatives to provide transportation.

The two witnesses who testified stated that they have been the applicant's clients for over a year and have used the applicant on many occasions to New York airports. One witnesses stated that more of his travel will be local; to and from Bradley Airport in Windsor Locks and that he requires the services of an intrastate provider and would like to use the applicant. This testimony was corroborated by the other witness. Further, the witnesses attested to Milburn's professionalism and excellent service. No evidence was entered in the record to contradict the witness testimony and there was no opposition to the application.

IV. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude that the Anytime Limousine Service, LLC possesses the financial responsibility to operate the proposed service, its management possesses the suitability to operate the proposed service and that the public's convenience and necessity will be improved by the proposed service in accordance with Connecticut General Statutes Section 13b-103(b).

V. ORDER

The application of Anytime Limousine Service, LLC is hereby approved and Permit No. 3094, standing in the name of Anytime Limousine Service, LLC, is hereby amended and reissued as follows:

REQUIREMENTS:

Anytime Limousine Service, LLC must register its vehicles within 30 days from the date of this Final Decision.

LIVERY PERMIT NO. 3094
FOR THE OPERATION OF GENERAL LIVERY SERVICE

Anytime Limousine Service, 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 Stamford.

Anytime Limousine Service, 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-570996-C.

The additional authority granted in this decision 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 6th day of November 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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