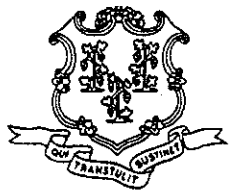


File

11



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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

Phone:

(860) 594-2875

DOCKET NO. 0612-N-126-L

RE: APPLICATION OF MJ 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 DANIELSON (A COMMUNITY OF THE TOWN OF KILLINGLY) CONNECTICUT.

FINAL DECISION

September 11, 2007

I. INTRODUCTION

A. Application

By application filed on December 15, 2006 with the Department of Transportation (hereinafter "Department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, MJ Limousine Service, LLC (hereinafter "Applicant") of Danielson, 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 community of Danielson in the Town of Killingly.

B. Hearing

Pursuant to Connecticut General Statutes, Section 13b-103(a), as amended, a public hearing on this application was held on August 9, 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 Norwich Bulletin, 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

MJ Limousine Service, LLC, located at 12 Vezina Drive, Danielson, Connecticut appeared through Roger Desire, its owner and was represented by Eric Ness, Esq. of Shipman & Goodwin, LLP, Counselors at Law, whose address is One Constitution Plaza, Hartford, Connecticut.

D & C Luxury Transportation, LLC dba Andrea's Limousine Service (hereinafter "Andrea's"), whose mailing address is 266 Spaulding Road, Plainfield, Connecticut, is holder of livery permit number 2529 and has its headquarters in Plainfield. Andrea's filed a letter of opposition to the application, however, Andrea's Limousine Service failed to send a copy of its opposition to the Applicant, as required by Connecticut General Statutes Section 4-177a. No party or intervenor status was afforded to the petitioner. Andrea's made a statement on its behalf at the end of the Applicant's case.

Car.Kom Realty, LLC dba Central Limousine (hereinafter "Central Limousine"), whose mailing address is P.O. Box 147, Plainfield, Connecticut is holder livery permit number 3064 and has its headquarters in Plainfield. Central Limousine filed a letter in opposition to the application, however, Central Limousine failed to send a copy of its opposition to the Applicant, as required by Connecticut General Statutes Section 4-177a. No party or intervenor status was afforded to the petitioner. Central Limousine made a statement at the end of the Applicant's case.

Alumni Limousine, LLC, whose mailing address is P.O. Box 242, Storrs, Connecticut, operates from a headquarters in Storrs. Alumni Limousine, LLC who appeared through Dennis Brunnelle, one of its members, did not file a petition but made a statement at the conclusion of the evidence.

Sheldon Lubin, Utilities Examiner with the Regulatory & Compliance Unit of the Department was present at the hearing.

II. FINDINGS OF FACT

1. Roger Desir is a member and the manager of the Applicant company.
2. Desir plans to operate the business from his home.
3. Desir will be the only driver for the business as the business starts up.
4. The Applicant's total cash on hand is in the amount of \$74,679.
5. If granted authority, the Applicant intends to spend approximately \$20,000 to \$25,000 for a sedan.
6. The Applicant's insurance premium for two vehicles is estimated at approximately \$14,579 per year.
7. The Applicant has no criminal conviction history.
8. There are no livery companies with a headquarters in the community of Danielson or the Town of Killingly who filed opposition to the application.
9. Richard Jerr, of Danielson, is a special education teacher and part-time realtor. He supports the Applicant because he believes that a local limousine service would be beneficial for the local community, including his family, and his out-of-town clients. Jerr would hire the Applicant for transportation if he required it.
10. Ulrika Gates, a travel agent, has clients for whom she arranges livery service along with travel packages. Gates presently uses a Massachusetts licensed livery company that works in Connecticut for livery service for her clients. Gates' travel business is located in Putnam, approximately seven (7) miles from downtown Danielson.
11. A limousine service headquartered in Danielson would be closer to use, and therefore less expensive for the members of the general public of the local communities than those with a headquarters in other towns because of the deadhead miles that must be charged as part of the tariff.
12. The Applicant's proposed service will be located north of Andrea's and Central Limousine, and closer to the northern towns of Connecticut.
13. The petitioners in opposition to the application, Andrea's and Central Limousine, both maintain a headquarters in Plainfield.
14. The petitioners in opposition to the application are competitors of the Applicant.

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 this matter, the Applicant seeks authority to operate two (2) vehicles in livery service in Danielson, a community in the Town of Killingly, Connecticut. The Applicant's sole member has no criminal conviction history and no negative information regarding Roger Desir, the manager of the Applicant. Desir testified that he is willing and able to follow the requirements of the statutes and regulations governing the operation of livery in Connecticut. Desir has approximately five (5) years of experience driving in livery service for other companies. Based on the evidence presented, the Applicant's management has the suitability to operate the proposed service.

In support of financial wherewithal, the Applicant provided proof of cash on hand in the amount of approximately \$74,679. He intends to purchase two (2) vehicles and has provided estimates of operating costs, of approximately \$1100 annually for marketing and supplies, fuel in the amount of \$1,732, and insurance in the amount of \$14,579 annually for two (2) cars. Desir owns a house with his wife. The market value of the house is approximately \$300,000. Desir has equity that is available to him in the approximately amount of \$100,000 that he would use to maintain the business, if required. Based on the evidence provided, the Applicant possesses the financial wherewithal to operate the proposed business.

Turning to the improvement of public convenience and necessity, two (2) witnesses spoke in support of the proposed service. The first witness, Richard Jerr, testified that he works for the Town of Danielson Special Education at the high school and is a part-time realtor. Jerr is familiar with the fact that students from the high school will rent limousines or livery vehicles for functions, including proms. Jerr also testified that the business would be beneficial to him as a realtor because sometimes he has out-of-state clients that he would like to have transported to Danielson for business. Jerr is not aware of any other livery service in Danielson.

Ulrika Gates, a travel agent in Putnam, the next town north of Killingly, testified that she requires a local livery business because she often books limousine services for her clients, along with other services. She testified that she currently uses a Massachusetts licensed livery company for local livery work. She would use the Applicant's business if it was operating.

Opposition to the Applicant came from livery companies in the southern adjacent Town of Plainfield and Alumni Limousine, LLC from Storrs, several towns to the west of Plainfield. The owners of Andrea's, Central Limousine and Alumni Limousine, LLC, competitors in the livery business, testified that there is not enough business to sustain another livery company and that their livery businesses have seen a reduction in livery requests. However, Connecticut General Statutes Section 13b-103 does not contemplate the effect of a new livery business on existing livery businesses, but rather is in effect to protect the public. In addition to suitability and financial wherewithal, the only other determination is the improvement of the present or future public convenience and necessity.

The last witness who testified, Elizabeth Swenson, made a statement on behalf of Andrea's. Swenson is the Director of Economic Development in the Town of Plainfield. She testified to the need or lack thereof in the Town of Plainfield. The testimony was given little weight because it did not

speak to livery service in Danielson. Also given little weight were letters of support submitted into evidence by the Applicant. The signatories of the letters were not present at the hearing for cross-examination and therefore are unreliable. Norwalk Yellow Cab, Inc. v. Department of Transportation et al, Hartford/New Britain J.D. at Hartford, (Docket No. CV-93-070467), July 6, 1994.

Finally, the Applicant has applied for authority for two (2) vehicles. The evidence of record indicates that Desir will be the only driver of the vehicle during the beginning of the business. The application will be granted, in part, and in the future, should the Applicant's business increase and grow, additional vehicles can be applied for. Meanwhile, the Applicant can refer to the Department of Motor Vehicles to learn how to dual register his vehicles.

IV. CONCLUSION

Based on the entire record, the evidence supports the conclusion that the management of MJ Limousine Service, LLC possesses the financial wherewithal and the suitability to operate the proposed service and further, that the proposed service will improve the present or future public convenience and necessity, pursuant to Conn. Gen. Stat. Section 13b-103, as amended.

V. ORDER

The application of MJ Limousine Service, LLC is hereby granted and its livery permit is hereby issued in the following form:

**LIVERY PERMIT NO. 3174
FOR THE OPERATION OF LIVERY SERVICE**

MJ Limousine, LLC is hereby permitted and authorized to operate ONE (1) motor vehicle, having a seating capacity of less than ten (10) adults, in GENERAL LIVERY SERVICE between all points in Connecticut from a headquarters in Danielson, Connecticut.

CONDITIONS PRECEDENT:

- 1. Prior to the registration of vehicles, the MJ Limousine Service, LLC is ordered to establish a bank account in its name, within thirty (30) days from the date of this final decision, and to file with the Department proof of said account.**
- 2. Prior to the registration of vehicles, the MJ Limousine Service, LLC is ordered to file with the Department, within thirty (30) days of the date of this final decision, proof from the zoning office in Danielson, that the Applicant may legally operate from 12 Vezina Drive, Danielson, Connecticut.**
- 3. MJ Limousine Service, LLC is ordered to register its vehicles within forty-five (45) days from the date of this final decision.**

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 11th day of September, 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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