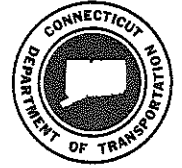




STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

Phone:

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DOCKET NO. 0711-AV-181-T

RE: APPLICATION OF EVEREADY NORWALK, INC. D.B.A. EVEREADY  
NORWALK, INC. TO OPERATE TEN (10) MOTOR VEHICLES, IN  
TAXICAB SERVICE WITHIN AND TO AND FROM NORWALK, TO  
ALL POINTS IN CONNECTICUT.

FINAL DECISION

June 4, 2010

## I. INTRODUCTION

### A. Applicant's Proposal

By application filed on November 21, 2007, with the Department of Transportation (hereinafter "Department"), pursuant to Section 13b-97 of the Connecticut General Statutes as amended, Eveready Norwalk, Inc. d.b.a. Eveready Norwalk, Inc. (hereinafter "applicant"), seeks authorization to operate ten (10) additional motor vehicles, in taxicab service within and to and from Norwalk, to all points in Connecticut.

### B. Hearing Held

Pursuant to Section 13b-97 of the Connecticut General Statutes, as amended, a public hearing on this application was held at the Norwalk City Hall on March 23 and 24, 2010 and at the administrative offices of the Department in Newington, Connecticut on April 7 and May 19, 2010.

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 Connecticut General Statutes, as amended. Notice to the public was given by publication in the Departments web site.

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

### C. Appearances

Vito Bochicchio appeared on behalf of Eveready Norwalk, Inc. d.b.a. Eveready Norwalk, Inc. The applicant was represented by Eugene Kimmel, Esq. with a mailing address of Nine Morgan Avenue, Norwalk, Connecticut 06851.

Rock Shufaj appeared on behalf of Norwalk Taxi which received intervenor status in the hearing. Norwalk Taxi was represented by Charles Harris, Esq. from the law office of Harris, Harris and Schmid located at 11 Belden Avenue, Norwalk, Connecticut 06850.

Sheldon Lubin, a Department staff member, appeared at the hearing.

### D. Expedited Application

Administrative Notice was taken of any expedited application filed by Norwalk Taxi in the past twelve months. Department records show that Norwalk Taxi was granted one vehicle in taxicab service through the expedited application process on March 18, 2010.

## II. FINDINGS OF FACT

1. The applicant currently operates seven (7) taxicabs in Norwalk.
2. Norwalk Taxi has the authority to operate twenty (20) taxicabs in Norwalk.
3. Norwalk Yellow Cab has the authority to operate thirty (30) taxicabs in Norwalk.
4. Shortly before the end of this hearing, the applicant completed a stock purchase of Norwalk Yellow Cab which transferred the authority to operate thirty (30) taxicabs in Norwalk to the applicant.
5. As of March 12, 2010, the applicant had cash in the bank totaling \$51,668.
6. The cost to insure each additional taxicab is \$5,200 per vehicle.
7. Mr. Bochicchio's personal net worth is estimated at \$4,612,667.
8. The applicant has a line of credit worth \$100,000.
9. Vito and Paul Bochicchio both submitted criminal record checks with no convictions.
10. Ms. Glennie Coon is a retired resident of Norwalk who does not drive. She uses taxicabs 5-6 times a week. She prefers the applicant's service and they are always available to transport her, usually within fifteen minutes. She has not had good service from Norwalk Yellow Cab because the dispatchers are not friendly and the taxicabs do not show up on time. She has not experienced problems with Norwalk Taxi.
11. Ms. Amanda Brown works for Harbor Point Development. She uses taxicabs on an infrequent basis although she supports the concept of adding more taxicabs. Ms. Brown believes the future planned construction in Norwalk, which has been on the table for many years without being completed, justifies additional taxicabs. Ms. Brown has not had an issue getting a taxicab herself.
12. Mr. Steve Serasis testified that he is a grant writer and lifelong resident of Norwalk. He last used a taxicab four weeks ago and had no complaints. On the whole his experiences have been good with regard to getting a taxicab.
13. Mr. Robert Virgulak owns a commercial real estate company in Norwalk. He believes there is a need for additional taxicabs in Norwalk for people commuting to Norwalk. Some of his customers need to use taxicab transportation to and from the train station. He himself is not a taxicab user.
14. Mr. Davis Molina is the manager for the Bank of America in Norwalk. He reports that the bank customers often wait in the lobby of the bank for a taxicab.

15. Ms. Yvonne Rodrequez works for the Board of Education in Norwalk. She drives a car and uses a taxicab infrequently. Her children often call a cab and have to wait thirty to forty-five minutes to receive service.

16. Ms. Anna Duleep a math tutor in Norwalk. She testified that there is a perception that the train station in Norwalk is not safe. As a councilwoman, her constituents have complained to her about the taxicab service.

17. Mr. Naiden Stoyanov is the publisher of Norwalk Plus magazine. He believes that Norwalk needs additional taxicabs due to future growth. He is not a taxicab user.

18. Mr. Al Ayme is the commissioner for the second taxing district in Norwalk. He receives complaints from his constituents about having difficulty getting a taxicab.

19. Mr. Herbert Grant, the president of Entertainment Enterprise has not used taxicabs in the past year.

20. Mr. Preston McClain is a taxicab driver for Eveready Norwalk supports the application for more taxicabs.

21. Ms. Kathryn Hebert, the Director of the Parking Authority in Norwalk testified that all three of the taxicab companies in Norwalk have outstanding parking tickets, some of which are several years old.

22. Ms. Jessie Davis is a retired Norwalk resident who uses taxicab service three to four times a week. It was unclear from her testimony which services she uses.

23. Ms. Briggett Grant is a weekly taxicab user. She believes Eveready to be efficient and is usually picked up within twenty to thirty minutes.

24. Mr. C. Hillard testified that while he only uses taxicabs intermittently, but he has heard about complaints from his constituents about the taxicab services.

25. Ms. Lorrain Brown is an occasional taxicab user. When she has called Eveready she has waited fifteen minutes for a taxicab.

26. Ms. Annie Brown uses taxicabs two to three times a week. When she calls Eveready she usually waits ten to fifteen minutes for a taxicab.

27. Ms. T. Jones uses taxicabs three to four times a week. Her wait time with Eveready is about twenty-five to thirty minutes.

28. Ms. Mary Fitchett uses taxicabs occasionally. She has experienced waiting times of twenty minutes.

29. Mr. Andrew Garfinkle is the Town Clerk. He does not have much need for a taxicab himself but he does believe more taxis are needed.

30. Mr. Brian Griffin from the Norwalk Chamber of Commerce testified that Norwalk could use more taxis. Mr. Griffin stated he will testify in support of any company that is a member of the Chamber of Commerce.

31. The applicant plans to recruit owner operators as drivers.

### III. DEPARTMENT ANALYSIS

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. The Department is authorized to prescribe regulations with respect to fares, service, operation and equipment, as it deems necessary for the convenience, protection and safety of the passengers and the public.

Pursuant to Section 13b-97 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. In so doing, the Department must take into consideration 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.

With regard to the drivers the applicant will be hiring, Mr. Bochicchio testified that he has many applications from drivers who want to drive in Norwalk. The applicant wants to use owner operators who will provide their own vehicles.

In support of financial wherewithal to operate the proposed service, the applicant presented evidence that the company has cash in the bank as of March 12, 2010 totaling \$51,668. The annual cost to insure each additional taxicab is \$5,200 per vehicle. Mr. Bochicchio's personal net worth is estimated at \$4,612,667. The applicant has a line of credit worth \$100,000. Based on the evidence presented, the applicant has the sufficient financial wherewithal to operate the proposed service.

The applicant submitted a criminal record check for Paul and Vito Bochicchio showing no criminal record. The applicant has been in the taxicab business for many years and has achieved the experience necessary to operate the proposed expansion. Based on the evidence presented the applicant is suitable to operate the proposed service.

Norwalk Taxi presented evidence of the applicant's failure to pay parking tickets in the city of Norwalk. The testimony of the applicant that these parking tickets are on appeal was not credible as many of these tickets are more than a year old which is longer than the appeal process takes. Norwalk Taxi and Norwalk Yellow Cab also have outstanding parking tickets. Therefore, a referral will be made to the Regulatory and Compliance Unit to investigate whether these tickets are a sufficient violation of the taxicab certificate which would warrant citation hearings for all three companies in Norwalk.

To receive a grant of authority, the applicant has the burden of proving that public convenience and necessity requires the grant of taxicab authority. Although the applicant presented a large volume of witnesses, it is the quality of the witnesses' testimony that counts, not the quantity. The majority of the witness presented did not have first hand taxicab experience in Norwalk but proffered the theory that having more taxicabs was better. Many of the witnesses complained about the Mayor not allowing taxicabs to pick up on both sides of the train station, which is a concern for the residents but not a relevant issue with regard to determining public convenience and necessity for taxicabs in Norwalk. The witnesses that actually use taxicabs testified that they usually receive a taxicab within the fifteen or twenty minutes of calling for one, which is a reasonable waiting time

There was much testimony about the future development in Norwalk. This testimony is tempered by the fact that many of these projects have been on the drawing board for many years without being completed. It is unknown whether these projects will ever be completed and therefore not a reliable indicator of taxicab need.

The applicant submitted trip sheets for its seven taxicabs from March 1, 2007 to March 14, 2007. The trip records reflect large gaps in service where the drivers were not working. A review of the records also showed that an average trip number of trips per shift at 14 and that several of the drivers spent a good portion or all of their day hanging around the train station for fares, which does not indicate having a full schedule of work.

While the hearing was pending, the applicant purchased Norwalk Yellow Cab in a stock sale. One of the real problems with taxicab transportation in Norwalk is the bad taxicab service provided by Norwalk Yellow Cab and the fact that many of its vehicles were not in operation. When Mr. Bochicchio purchased Stamford Yellow Cab, the company had only eleven (11) of its thirty (30) vehicles authorized in operation. The purchase resulted in the applicant receiving authority for thirty (30) taxicabs. The applicant received authorization to operate an additional nineteen (19) taxicabs beyond what was being operated in Norwalk at the time of the sale. Since the applicant plans to place into service all thirty (30) taxicabs, there is no need for the applicant to receive an additional ten (10) taxicabs in this hearing as Norwalk will be gaining an additional nineteen (19) taxicabs over what was being previously operated. Based on the evidence presented, the applicant has not carried its burden of proof with regard to public convenience and necessity.

Norwalk Taxi has filed a request to review the stock transfer that occurred between the applicant and Norwalk Yellow Cab. The Department has issued a citation notice to determine whether such transfer was properly performed. This hearing will be held at a later date.

#### IV. CONCLUSION

Based on the evidence presented, the application of Eveready Norwalk, Inc. DBA Eveready Norwalk is hereby denied.

Dated at Newington, Connecticut on this 4th day of June 2010.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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Judith Almeida, Esq.  
Staff Attorney III  
Administrative Law Unit  
Bureau of Finance and Administration