



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. 0803-N-62-T

RE: APPLICATION OF JULIO ACEVEDO D.B.A. ACEVEDO TAXI CAB
TO OPERATE ONE (1) MOTOR VEHICLE IN TAXICAB SERVICE
WITHIN AND TO AND FROM BRANFORD, EAST HAVEN, NEW
HAVEN, NORTH HAVEN, ORANGE AND WEST HAVEN TO ALL
POINTS IN CONNECTICUT.

FINAL DECISION

April 28, 2009

I. INTRODUCTION

A. Applicant's Proposal

By application filed on March 26, 2008, with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-97 of the Connecticut General Statutes as amended, Julio Acevedo d.b.a. Acevedo Taxi Cab (hereinafter "applicant") located at 624 Middletown Avenue, New Haven, Connecticut, seeks authorization to operate one (1) motor vehicle, in taxicab service, within and to and from Branford, East Haven, New Haven, North Haven, Orange and West Haven to all points in Connecticut.

B. Jurisdiction

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(a), 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.

C. Hearing

Pursuant to Section 13b-97(a) of the General Statutes, as amended, a public hearing on this application was held at the administrative offices of the department in Newington, Connecticut, on October 2, November 20, 2008 and March 3, 2009.

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 New Haven Register, a newspaper having circulation in the area of concern.

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

D. Appearances

The applicant appeared through Julio Acevedo and on the first day of hearing was represented by Antoine Scott, a friend of the applicant who was responsible for the applicant's marketing. On the second and third day of hearings, the applicant was represented by Michael Stone, Esq. of the Law Office of Michael Stone whose mailing address is 129 Church Street, Suite 806, New Haven, Connecticut. Acevedo's mailing address is 624 Middletown Avenue, New Haven, Connecticut.

Transportation General, Inc. d.b.a. Metro Taxi (hereinafter "Metro Taxi"), holder of taxicab certificate number 86, appeared through its owner William Scalzi. Metro Taxi operates taxicabs within and to and from Branford, East Haven, New Haven, North Haven, Orange and West Haven. Metro Taxi was granted intervenor status in said territories. Metro Taxi's mailing address is P.O. Box 26094, West Haven, Connecticut.

Bulldog Taxi, LLC, holder of taxicab certificate number 1207, appeared through its owner/member Khushwant Bhatia. Bulldog Taxi, LLC operates one (1) taxicab within and to and from Cheshire, Hamden and New Haven. Bulldog Taxi was granted intervenor status in New Haven. On November 20, 2008, the department received a letter from Bulldog Taxi, LLC to Acevedo Cab Co. withdrawing opposition and intervenor status. Bulldog Taxi, LLC has a mailing address of P.O. Box 4508, Hamden, Connecticut.

There were several petitions for status submitted to the department, however, the proponents were not in attendance during the hearing and no ruling was made relative to those petitions, in accordance with Regulations of Connecticut State Agencies Section 13b-17-11a.

Sheldon Lubin, utilities examiner with the Regulatory and Compliance Unit of the department, attended the hearing.

II. FINDINGS OF FACT

1. Julio Acevedo, the applicant, is a taxicab driver for Segundo Aguayza d.b.a. Ecuamex Taxi (hereinafter "Ecuamex"), who holds authority to operate four taxicabs within and to and from East Haven, Hamden, New Haven and West Haven under Certificate No. 1160. Acevedo has been employed as a taxicab driver by Ecuamex for three years. Prior to that he drove for Connecticut Limousine, transporting passengers to airports and for First Student School Buses transporting students to school.

2. Acevedo has a joint money market account in the amount of \$102,671.

3. Acevedo's insurance estimate for the proposed taxicab is \$5,346 per year.

4. Acevedo was unsure of the costs, but estimated his costs for fuel and maintenance for six months at \$6000 and \$600, respectively.

5. Acevedo was not independently familiar with, and did not have independent knowledge of, the taxicab tariff or flat rates; nor was he familiar with the taxicab regulations and statutes, other than knowing they exist.

6. Acevedo has no criminal conviction history.

7. Acevedo gets his calls from Ecuamex's dispatcher or he waits at the New Haven train station for taxicab customers coming off the trains.

8. Waleed Assad from West Haven drives for Checker Cab Co. as an owner-operator. Checker Cab Co. holds taxicab Certificate No. 240 and is authorized to operate three (3) taxicabs within and to and from New Haven.

9. Assad also drives for Donel Ballard d.b.a. Quick Taxi who holds taxicab Certificate No. 1163 and is authorized to operate two (2) taxicabs within and to and from Hamden, New Haven, and West Haven.

10. Assad also drives for Horizon Cab Co., LLC, holder of taxicab Certificate No. 1169. Horizon Cab and is authorized to operate two (2) taxicabs within and to and from Hamden, New Haven and West Haven.

11. Assad has been driving a taxicab for more than 10 years.

12. Assad advertises his own taxicab company on the internet and in the Yellow Pages under the name of "Action Taxi" although he does not hold a taxicab certificate in that name.

13. Assad was verbally ordered to cease and desist advertising and operation as "Action Taxi."

13. Checker Cab Co. does not have a dedicated dispatch system. Checker Cab answers its calls by answering machine that refers members of the public who are looking for a taxicab to Assad's telephone number and another Checker Cab taxicab driver's telephone number.

14. A third driver works for Checker Cab. He does not have his name given out on the answering machine.

15. Assad does not have enough work from Checker Cab Co. alone, which is why he drives for the other two companies.

16. Eva Powell lives in New Haven and she uses taxicabs almost every other day for medical appointments. She testified in a licensing hearing for Dominican USA Taxi Company in 2008 in favor of its application for taxicab service in New Haven County. Powell does not use Dominican USA Taxi; Powell does not like Metro Taxi.

17. Ecuamex double shifts Acevedo's taxicab. Alberto Santiago drives the second (night) shift with the same taxicab that Acevedo uses. Sometimes Acevedo is late getting the car to Santiago for the second shift.

III. DISCUSSION

In the determination of public convenience and necessity, the department must certify that public convenience and necessity require the operation of a taxicab for the transportation of passengers. The department must give due consideration to, at 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 financial wherewithal to operate the proposed business, Acevedo provided a balance sheet dated March 2, 2009. The supporting documentation showed that the insurance estimate for one vehicle in taxicab service is \$5,346 annually. Property taxes were estimated at \$300 annually, fuel costs at approximately \$6,000 for six months and vehicle maintenance at \$600 for six months. As of February 25, 2009, Acevedo had a joint money market account with \$102,671 and he has a credit line in the amount of \$17,700. Based on the financial information presented, the applicant is financially suitable to operate the proposed service.

In support of suitability, the applicant provided the requisite criminal conviction history form which shows that the applicant had no convictions under federal, state or local laws relative to safety, motor vehicle or criminal convictions. The applicant has driving experience he gained from driving for other companies, including a livery company and a school bus company.

In addition to having driving experience, an applicant must show that he possesses the business acumen to operate the proposed business. Acevedo failed to prove that he has such business acumen, or knowledge of the regulations, as required by Regulations of Connecticut State Agencies Section 13b-96-4. Acevedo's testimony relative to the rates of fare was vague and Acevedo did not have independent knowledge of the rate system for over fifteen mile trips. When questioned about the rates, and about the general operation of taxicabs, he often indicated that "he knows now."

Acevedo's demeanor during his testimony raised concern about his credibility. At the beginning of the hearing, the applicant, along with his representative, unequivocally stated that the applicant understood the English language and did not require an interpreter. The applicant has been in the United States for several years and has worked as a taxicab driver for a Connecticut taxicab company for the past three years. Moreover, Acevedo has driven for a limousine company and school bus company over the years. With this background, especially in light of the applicant's representations, it appeared that the applicant has a grasp of the English language. Based on Acevedo and Scott's representations to this hearing officer, and because no request was made for one, there was no interpreter on the first day of hearing. The applicant appeared to have a good grasp of the English language and was able to answer questions appropriately on direct examination and when questioned by this hearing officer as to clarification of testimony.

When the applicant was cross-examined by William Scalzi, owner of the intervenor company, Transportation General, Inc. d.b.a. Metro Taxi, the applicant did not have answers to some of the questions posed. The applicant became noticeably uncomfortable, indicated that he did not understand the questions. Acevedo's representative argued that Scalzi was trying to trick Acevedo.

The questions that Scalzi asked on cross-examination were uncomplicated and straight forward. The questions examined the applicant's basic knowledge of the taxicab business, the applicant's business acumen, and the applicant's reasoning and understanding of the foundation of the application. Acevedo did not have answers to essential questions about the operation of a taxicab service. Acevedo's answers, to some fundamental questions asked, were unconvincing. Acevedo lacked basic knowledge and understanding of the workings of a taxicab company beyond driving. On the first day of hearing, the applicant simply did not know the answers to the questions posed – and not because of a language barrier. Acevedo struggled to answer questions such as what was the prevailing taxicab rate, the territories for which the applicant requested authorization, insurance questions, and questions about Acevedo's the hours of operation. At the end of the first day of hearing, the applicant requested an interpreter.

During the second and third days of hearing, an interpreter was present to translate for the applicant. It was apparent to this hearing officer that the applicant had gleaned the answers to questions posed by the intervenor over the several weeks that the hearing was continued. Moreover, it became apparent, and Acevedo confirmed, that he possesses knowledge and understanding of the English language. This became more evident as the hearing progressed because there were numerous times during the second and third day of hearing that the applicant answered questions in English – without waiting for any translations. Interestingly, applicant's counsel requested of Acevedo to wait for the translations and answer in Spanish for consistency. Based on these observations, the applicant's credibility decreased as the hearing progressed. The applicant's testimony is simply untrustworthy and therefore given no weight. It also puts into question the applicant's suitability.

Several witnesses testified in an attempt to prove that public convenience and necessity requires the addition of a taxicab. Eva Powell testified that she could not get a taxicab from any company other than Ecuamex; although she admitted that she had not called Dominical U.S.A. Taxi Company, a company at whose hearing for taxicab authority she was a supporting witness. Under cross-examination, however, it appeared that Powell was eager to testify against the intervenor, rather than for public convenience and necessity. Powell's testimony was unpersuasive on the issue of public convenience and necessity.

Waleed Assad, a driver for Checker Cab, testified in support of public convenience and necessity. Assad has applied for a taxicab certificate; he also advertises under the trade name of Action Taxi. There is no taxicab certificate issued to Assad or Action Taxi, bringing into question his suitability. Assad does not receive enough work from Checker Cab to keep him busy; therefore, he also drives for two other taxicab companies. Assad's testimony does not support public convenience and necessity.

Alberto Santiago, a night shift driver for Ecuamex, testified that he uses the same vehicle as Acevedo, and sometimes Acevedo returns his car late. Santiago attributes Acevedo's tardiness to public necessity. Since there are a myriad of reasons that Acevedo may be late to return the car, Santiago's testimony does not support public convenience and necessity.

Acevedo entered into evidence several photographs of the New Haven train station. The photographs were offered to show a need for taxicab service in New Haven, but are only snapshots of the New Haven train station on different days and at different times. The intervenor, likewise, entered photographs into evidence, but to show there is no need for additional taxicabs at the train station. The photographs don't show a need, nor do they show there is no need for additional taxicabs in New Haven. The photographs do not address critical factors such as how many people depicted in the photographs are waiting for a taxicab, how many people in the photographs are waiting for a ride from friends or family, where the queue line was photographed from; whether a train had just arrived or had just departed, or whether there was a train at all, how long people were waiting for a taxicab. Such information could not be extrapolated from the photographs. The photographs submitted by the applicant and intervenor were not of any assistance in making the determination, either for or against, public convenience and necessity.

IV. CONCLUSIONS OF LAW


Based upon the above and pursuant to Connecticut General Statutes Section 13b-97, as amended, the applicant has failed to prove that he is suitable to operate the proposed business and failed to prove that the public's convenience and necessity requires an additional taxicab in the territories of concern.

V. ORDER

The application of Julio Acevedo d.b.a. Acevedo Taxi Cab is hereby denied.

Dated at Newington, Connecticut, on this 28th day of April 2009.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Laila A. Mandour
Staff Attorney III
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