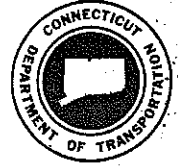


STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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

Phone:

DOCKET NO. 0901-N-03-T

RE: APPLICATION OF USA TAXI OF NORWALK, INC. TO OPERATE TWENTY (20)
MOTOR VEHICLES IN TAXICAB SERVICE WITHIN AND TO AND
FROM NORWALK.

FINAL DECISION

October 10, 2012

I. INTRODUCTION

A. Applicant's Proposal

By application filed on January 12, 2009, with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-97 of the Connecticut General Statutes, as amended, USA Taxi of Norwalk, Inc. (hereinafter "applicant") with a mailing address of P.O. Box 1005, Stamford, Connecticut 06902 seeks authorization to operate twenty (20) motor vehicles in taxicab service within and to and from the City of Norwalk.

B. Hearing Held

Pursuant to Section 13b-97(a) of the Connecticut General Statutes, as amended, a public hearing on this application was held at the Department of Transportation in Newington, Connecticut on April 24, July 10, July 24, July 31, and September 20, 2012.

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. Legal notice to the public was given by publication on the department's website.

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

Francisco Rendon appeared on behalf of the applicant. The applicant was represented by Attorney Edward Marcus and Attorney Mark Bergamo of the Marcus Law Firm. Their mailing address is 275 Branford Road, North Branford, Connecticut 06471.

Vito Bochicchio appeared on behalf of Eveready Norwalk and Norwalk Yellow Cab and received intervenor status. Attorney Gregory Kimmel from the law firm of Kimmel & Kimmel, LLC. represented Mr. Bochocchio's companies. His mailing address is 9 Morgan Avenue, Stamford, Connecticut 06851.

Rock Stufaj appeared on behalf of Norwalk Taxi and was granted intervenor status. Norwalk Taxi was represented by Attorney Stephanie Laska from the law firm of Harris, Harris and Schmidt. Her mailing address is 11 Belden Avenue, 1st Floor, Norwalk, Connecticut 06850.

D. Administrative Notice

Administrative notice was taken of the citation action against the respondent in

Docket Number 0902-C-18-T, in which the applicant was assessed a civil penalty of \$2,300 for various mechanical violations and allowing drivers to operate its taxicabs without the proper license.

II. FINDINGS OF FACT

1. The applicant currently operates sixteen (16) taxicabs in Stamford and a livery service with eight (8) vehicles.

2. The applicant seeks to operate twenty (20) taxicabs in Norwalk.

3. Mr. Peter Torrano is a retired police Captain in Norwalk since 2001 and a current police commissioner. He stressed the need for bilingual taxicab drivers as the population of Hispanic residents has grown. He has not used taxicabs himself in the past six years.

4. State Representative Bruce Morris testified that there is a need for additional taxicabs in Norwalk. He has received complaints from constituents about the lack of taxicab service in Norwalk. His daughter told him it occasionally took her more than thirty (30) minutes to get a taxicab.

5. Both the applicant's livery and taxicab companies operate white vehicles.

6. In the last five years there were seven (7) new taxicab certificates awarded in Norwalk to Eveready.

7. The population of Norwalk is twenty-five (25) percent Hispanic or 21,000 residents.

8. Alejandro Martinez is a taxicab driver and a part time dispatcher for Mr. Rendon. If the application gets authority in Norwalk, he will work as a dispatcher. He speaks English and Spanish.

9. Marie Carmen Gody is a reporter who works for a Spanish newspaper. She testified that it's hard for some people in the Hispanic community to communicate with the taxi drivers because they don't speak English. She has experienced a waiting time of fifteen (15) to twenty (20) minutes for a taxicab.

10. Ivan Gomez testified that he owns a restaurant in Norwalk. His patrons use taxicabs to get home from the restaurant. He testified that the waiting time for a taxicab is from fifteen (15) to thirty (30) minutes. He also stated that the white vehicles also come to his restaurant. These white taxis are either from Mr. Rendon's Stamford USA Taxi fleet or his livery fleet. He calls only one taxicab company for service.

11. Mr. Jesus Bravo is the president of the Colombo Association of Spanish American

which has 700 members living in Norwalk. Mr. Bravo is advocating for a Spanish speaking taxicab service in Norwalk due to language problems in the Hispanic community. He used to work for Mr. Rendon.

12. Hector Montanez testified that he uses taxicabs to transport his guests home when he has parties at his house. He uses taxicabs around five to six times a year. Sometimes he has difficulty getting the large number of taxicabs he needs to transport the number of people from his house. He complained about having trouble getting taxicabs on New Year's Eve. Mr. Montanez does not reserve the taxis in advance and he only calls one company for service.

13. Pablo Ocana testified that he is a former livery driver/owner and current real estate broker in Stamford. He supports additional taxicabs in Norwalk. He used to drive for Mr. Bochicchio but left after an argument over dispatching. He acknowledged there are Spanish speaking dispatchers at Eveready.

14. Ms. Linda Gulia testified that she is a friend and banker of Mr. Rendon for 20 years. She also operates a limousine company in New York. She has no knowledge of the taxicab situation in Norwalk.

15. Mr. Alejandro Montoya testified that he owns a restaurant in Norwalk. His customers get picked up by taxicabs. He and his wife only call Eveready and they never come on time. His waiting time is approximately a half hour. He has not used the other taxicab companies in Norwalk. He thinks there is a need for Spanish speaking drivers. He is friends with Mr. Rendon.

16. Celmira Silva testified that she uses taxicabs to go to work occasionally. In the last twelve (12) months, she has only used taxicabs about five times because she has a car. She has difficulty communicating with the dispatchers because they don't understand Spanish. She does not know what companies she calls. She has known Mr. Rendon for three or four years. She has had to wait about thirty (30) minutes to get transportation. She is not aware that there are three Norwalk taxicab companies.

17. Anna Lopez works as a front desk supervisor at the Hilton Garden Inn in Norwalk. She obtains taxicabs on a daily basis for guests. Typically, it takes twenty (20) minutes for taxicabs to show up. The hotel also has a shuttle bus for guests in Norwalk. She has concerns about the condition of the drivers and the taxicabs in Norwalk.

18. When the applicant gets taxicab calls he cannot handle, he sends his livery vehicles in response and charges \$20-\$25. This amount may be less than his livery tariff. This occurs approximately three (3) times per day.

19. Fifteen (15) percent of the drivers at Norwalk Taxi speak Spanish. Norwalk Taxi also has some dispatchers that speak Spanish. Eveready has five (5) Spanish speaking dispatchers and six (6) Spanish speaking drivers.

20. Gerard Vilsaint, owner of Independent Taxi appeared to testify. Independent has been located in Stamford since 2007. He testified that he gets four (4) to five (5) calls a day from Spanish people in Norwalk looking for taxicab service.

21. Before Mr. Bochicchio purchased Norwalk Yellow Cab in 2010, the company was operating only eleven (11) of the thirty (30) certificates it had authority for.

22. Erica Echavarria works as a supervisor at the Maritime Aquarium. She makes taxicab calls for patrons who can't speak English. She feels there is a need for bilingual drivers. She does not know which taxicab company she calls. She is a personal friend of Mr. Rendon.

23. Marcello Rodriguez owns two restaurants in the Norwalk area. He has to occasionally call a taxicab for one of his patrons. He estimates the waiting time for a taxicab at fifteen (15) to twenty (20) minutes.

24. Steven Reid and his wife, Maureen Bweupe, use taxicabs three (3) times a week but only call Yellow Cab. They are not aware that Norwalk has three taxicab companies.

25. Yvette Lama uses taxicabs and complains that they are late. She only uses Eveready. Ms. Lama knows Mr. Rendon.

26. Joaquin Sanchez uses taxicabs about two (2) times per week. He has a waiting time of thirty (30) minutes. He only calls Yellow Cab.

27. Miguel Delgado is a waiter in Norwalk. He calls taxicabs for patrons but only calls Yellow Cab. Taxicabs show up on time when he calls. His personal experience has been good except for one bad experience during the holidays.

28. Marcello Rodriguez is a bartender in Norwalk and the son of one of the witnesses who also testified in the hearing. He uses Norwalk Taxi and Yellow Cab. As part of his job, he calls taxicabs for customers. He last used a taxicab a month ago and they arrived in a half hour.

29. The applicant has cash on hand of \$111,483 in the bank. The estimated annual revenue per vehicle is \$25,272. The applicant will rent space from his other office at USA Taxi & Limousine of Stamford, Inc. for \$500 a month. The applicant's insurance will cost about \$4,000 per vehicle.

30. The applicant's owner operator agreement contains a \$5,000 deposit. This fee will be paid when the driver starts working for the company.

31. Mr. Rendon was unable to state how many taxicabs certificates have been issued in Norwalk.

32. The applicant gets ten (10) to twenty (20) calls per day for taxicab service to Norwalk.

33. Mr. Rendon hired drivers without the proper driver's license to operate his taxicabs.

34. Mr. Rendon had a citation in Docket Number 0902-C-18-T in which he was fined for utilizing drivers without the proper taxicab endorsement.

35. Many of the witnesses' are not familiar with all three taxicab companies in Norwalk.

36. Norwalk Taxi drivers perform eighteen (18) to nineteen (19) trips per day.

37. Lionel Shipp is a Norwalk Taxi dispatcher. He estimates that it takes three (3) to fifteen (15) minutes to get a taxicab. He is fluent in Spanish and English. He says that drivers are only doing two (2) to four (4) calls per hour. They have lost some of their corporate taxicab work.

38. Jose Bedances is a Spanish speaking Norwalk Taxi driver. He estimates that he performs sixteen (16) to twenty-two (22) calls a day.

39. Preston McClain is a driver for Eveready Norwalk. He performs about fourteen (14) trips per day. Mr. McClain estimates in 1998 he was doing nineteen (19) to twenty (20) calls per day.

40. Angela Batts testified about the lack of meters in the applicant's USA Taxi and the fact that the driver showed up with a passenger already in the car in May 2012. She uses Eveready Taxi and the average wait time is twelve (12) to fifteen (15) minutes.

41. Bonmache Lamar testified that she is a user of Eveready. Her wait time is about fifteen (15) minutes. She takes taxicabs about three (3) times a week. She also stated that the applicant's USA Taxi came to pick her up and the vehicle had no meter.

42. Susan Batts testified that she uses taxicabs three (3) or four (4) times a month. She has no problem getting a taxicab in Norwalk. She also testified about using a USA Taxi with no meter.

43. Alexandra Flores uses taxicabs several times a week. She calls Eveready and has no problems getting a taxicab. Her mother in law who only speaks Spanish does not have any trouble getting taxicabs.

44. Ashley Trejo uses taxicabs every weekend. Her wait time is usually less than ten (10) minutes. When she gets off the train there are cabs at the train station so she does not have to wait. She also mentioned the lack of a meter in USA Taxis on two occasions. Each of the trips was from

the same origin and destination and she was charged a different amount.

45. Magic Ramirez uses taxicabs both on the week days and weekend. She has not had a problem getting transportation. She estimates her wait time at less than ten (10) minutes. She and her family use Eveready. She had an incident at the Norwalk Train Station with USA Taxi in which the driver refused to take her to her destination.

46. Norwalk Yellow Cab has nineteen (19) vehicles registered with sixteen (16) in service.

47. Eveready has authority for eight (8) vehicles in Norwalk with seven (7) actually in service.

48. There is currently authorization for fifty-nine (59) taxicabs in Norwalk: Norwalk Yellow Cab has thirty (30), Eveready Norwalk has eight (8) and Norwalk Taxi has twenty-one (21).

III. DEPARTMENT ANALYSIS

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

As far as the applicant's financial ability is concerned, the applicant has cash on hand of \$111,483 in the bank. The estimated annual revenue per vehicle is \$25,272. The applicant will rent space from his other office at USA Taxi & Limousine of Stamford, Inc. for \$500 a month. The applicant's insurance will cost about \$4,000 per vehicle. The applicant has to have enough money for the first six months of operating expenses for the proposed service.

Regarding the insurance requirement, the applicant has adequate insurance and can afford

to add twenty (20) more vehicles. The applicant put on evidence concerning its safety program and mechanic as requires under the statute.

With regard to suitability, the applicant submitted State Police Bureau of Identification Criminal History Form for Franciso Rendon and Ana Rendon which showed no criminal convictions. There were, however, several issues brought out in the hearing that reflected negatively on Mr. Rendon's suitability.

One issue is that Mr. Rendon is servicing taxicab requests with his livery vehicles. Mr. Rendon testified that when he receives taxicab calls he can't service, he offers to send them a livery vehicle. Livery service is by reservation only and not on demand like taxicab service. Then there is the concern as to how Mr. Rendon is billing these livery trips. It is not credible to believe that people looking for a taxicab are going to pay the premium that livery services charge. Livery rates are required to be higher than the prevailing taxicab rate for that area. It is more likely that Mr. Rendon is using a lower rate than his livery tariff requires for these trips. Several witnesses testified that when they called a taxicab, they received a car with no meter and the driver guessed at the fare.

Another issue came to light is the applicant's history of hiring drivers who did not have a proper license to operate taxicabs. The latest incident involved a driver named John Pesantez who sought employment with one of Mr. Bochicchio's companies. A former driver for USA Taxi, John Pesantez, applied for a job with Mr. Bochicchio on February 9, 2012. Mr. Pesantez arrived to apply for employment driving a USA Taxi. Upon inspection, Mr. Pesantez did not have the proper license and was not hired.

To counter this claim, Mr. Rendon submitted a termination letter for Mr. Pesantez dated January 24, 2012. He claims Mr. Pesantez was not driving for him when he applied with Mr. Bochicchio. That may be true, but the fact remains that he clearly had been driving for Mr. Rendon as evidenced by the USA Taxi logo on his vehicle. In addition, Mr. Rendon admits Mr. Pesantez was driving for USA Taxi for one to two weeks before he was terminated.

Mr. Rendon has been brought before the department for a citation hearing in 2009 for exactly this same violation. Clearly, he has not learned from that prior experience. Based on the all of evidence presented, the applicant has not proven its suitability to operate the proposed service.

Mr. Rendon testified that he has sufficient drivers available to cover the number of taxicabs that he is seeking but it is not clear. To prove this point, the applicant presented driver agreements for some drivers then submitted a second and third set in the process revoking earlier agreements. These driver agreements were presented in a confusing way. There were also discrepancies within these exhibits as to which drivers would actually be driving in Norwalk and it was alleged that the signatures on some earlier driver agreements did not match later signatures. A close look at the signatures does call into question whether they were in fact signed by the same person.

It also strains credibility to think that the applicant can charge independent contractors \$5,000 as a security deposit when there are three other companies in Norwalk that do not charge this outrageous fee. It would be very difficult to actually obtain drivers who would comply with this request. Based on the evidence presented, it is unclear whether the applicant could actually fill all of its shifts with drivers who would actually be willing to pay the \$5,000 security deposit.

On the issue of need, the applicant stressed the need for Spanish speaking drivers and dispatchers in Norwalk. All of the taxicab companies in Norwalk have both bilingual drivers and dispatchers. Although having bilingual drivers and dispatchers is certainly beneficial, it is not a criterion that needs to be considered in making a grant of authority. If that were the case, any company offering a language other than English would automatically receive taxicab authority.

Most of the applicant's witnesses had complaints about the language issues and not the ultimate taxicab service they received. In fact, most of the applicant's witnesses received taxicabs within a half hour and many of the other witnesses testified that they got taxicabs in less than fifteen (15) to twenty (20) minutes, which is a reasonable period to wait for a taxicab.

Many witnesses were unaware that there are three taxicab companies presently in Norwalk. Many of the witnesses only call one company and don't call the other two taxicab companies if the first company is busy. Only calling one company without checking the status of the other companies paints an incomplete picture as to the true need for taxicab service in Norwalk.

The applicant argued that the taxicabs should be granted based on the increase in population in Norwalk. That is not how our taxicab regulatory system works. Pursuant to the Connecticut General Statutes, the applicant must prove that public convenience and necessity requires a grant of authority. Nowhere is population a factor to be considered as an element in the equation. Merely showing an increase in population is not enough to show that additional taxicabs are needed as there has been no direct correlation established between increased population and an increased need for taxicabs in Norwalk.

The applicant made much of the fact that some of the witnesses for the intervenor were recycled from earlier hearings in 2007. While it is true that some of the witnesses had testified in earlier hearings, that fact alone does not necessarily make their testimony suspect. There were other witnesses produced by the intervenor whom had not testified before. Assuming the intervenors witnesses were to be ignored in their entirety, the applicant's own witnesses did not establish a need for additional taxicabs in Norwalk.

The applicant attempted to impeach Mr. Bochicchio by pointing out that in his own Norwalk taxicab application from 2010, he actively sought to get taxicab certificates, while in this matter he opposed the applicant on the issue of public convenience and necessity. The applicant does have a point in this regard. Mr. Bochicchio's testimony is suspect because on one hand he is claiming there is a need for taxicab service in Norwalk, to the point he appealed the

final decision denying him additional authorization, and on the other hand, he claims there is no need for additional authority in this hearing.

The fact that Mr. Bochicchio has not been consistent in his testimony in this regard goes to the weight of his testimony. If Mr. Bochicchio's testimony were to be ignored in its entirety, it still does not help the applicant prove its case as it had many other obstacles to overcome in this application, which it failed to do.


Based on the evidence presented, the applicant has failed to prove that it is suitable, that it has sufficient drivers and that public convenience and necessity requires a grant of authority.

IV. CONCLUSION

Therefore, based upon the above and pursuant to Connecticut General Statutes Section 13b-97, as amended, the application of USA Taxi of Norwalk, Inc. is hereby denied.

Dated at Newington, Connecticut on this 10th day of October 2012.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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