



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. 0901-N-7-L

RE: APPLICATION OF GO ELITE CAR, LLC TO OPERATE FOUR
(4) MOTOR VEHICLES HAVING A SEATING CAPACITY TEN
(10) ADULTS OR LESS, IN GENERAL LIVERY SERVICE,
BETWEEN ALL POINTS IN CONNECTICUT FROM A
HEADQUARTERS IN WEST HARTFORD.

FINAL DECISION

October 1, 2009

I. INTRODUCTION

A. Application

By application filed on January 15, 2009 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, Go Elite Car, LLC (hereinafter "applicant"), located at 1000 Farmington Avenue, Suite 302, West Hartford, Connecticut, seeks authorization to operate four (4) 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 West Hartford, Connecticut.

B. Hearing

Pursuant to Connecticut General Statutes, Section 13b-103(a), as amended, a public hearing on this application was held on June 23, 2009 and September 1, 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 pursuant to General Statutes Section 13b-103(a)(1), as amended. Notice to the public was given by publication on the department website at www.ct.gov/dot.

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

C. Appearances

Go Elite Car, LLC appeared through John Braverman, its member, and was represented by Holly Winger, Esq. from the law firm of Brenner, Saltzman & Wallman LLP, whose mailing address is 271 Whitney Avenue, New Haven, Connecticut. Go Elite Car, LLC has a mailing address of P.O. Box 270674, West Hartford, Connecticut. At the hearing on September 1, 2009, the applicant was represented by Katherine A. Scanlon, Esq. of Seiger Gfeller Laurie LLP, whose mailing address is Blue Back Square, 65 Memorial Road / Suite 340, West Hartford, Connecticut.

King Limousine, Inc., holder of livery permit number 2557, appeared through its president Steven Begin and was represented by Alan J. Rome, Esq. from the law firm of Gersten Clifford & Rome LLP, whose mailing address is 214 Main Street, Hartford, Connecticut. King Limousine, Inc. has a mailing address of 406 Farmington Avenue, Farmington, Connecticut and operates livery service from a headquarters in Farmington, Connecticut. King Limousine, Inc. petitioned for and was granted intervenor status.

VIP Express, LLC, holder of livery permit number 2940, appeared through its president, Jerry Paleczeny, without counsel. VIP Express, LLC has a mailing address of 4 Beechwood Court, Newington, Connecticut and operates livery service from a headquarters in Newington, Connecticut. VIP Express, LLC petitioned for and was granted intervenor status.

Castle Sedan, LLC, holder of livery permit number 2548, appeared through its owner Brian P. McTeague, without counsel. Castle Sedans, LLC has a mailing address of 689 Franklin Avenue, Hartford, Connecticut and operates livery service from a headquarters in Hartford, Connecticut. Castle Sedans, LLC petitioned for and was granted intervenor status.

Hollywood Enterprises, Inc. d/b/a Hollywood Coach & Limousine Co., holder of livery permit 2130, appeared through its president, John Paul DiGrazia without counsel. Hollywood Coach & Limousine Co. has a mailing address of 538 Franklin Avenue, Hartford, Connecticut and operates from a headquarters in Hartford, Connecticut. Hollywood Coach & Limousine Co. filed for and was granted intervenor status.

Sheldon Lubin, utilities examiner with the Regulatory and Compliance Unit, was present at the hearing.

D. Administrative Notice

The following livery companies operate from a headquarters in West Hartford:

A & A Wheelchair, LLC, 236 Park Road, West Hartford;
American Medical Response of Connecticut, Inc., 130 Shield Street, West Hartford;
Park Row Limousine Corp., 42 Broad Street, New Britain;
Royal R. S., Inc., Royal Ride Transportation, 178 Park Road, West Hartford;
Simon Transportation, LLC, 96 Vanderbilt Avenue, West Hartford;
Specialty Transportation, Inc., 119 South Street, West Hartford.

II. FINDINGS OF FACT

1. The applicant received authority to operate interstate livery service approximately three or four months prior to the hearing and provides said service, with three (3) vehicles, to clients who travel from out of state airports and who attend out of state meetings and interstate nights on the town.

2. There are outstanding loans on the three vehicles that are currently being operated in interstate livery service by the applicant.

3. The applicant will purchase two additional town cars if the application is granted and will convert two registrations from interstate to intrastate livery.

4. The applicant's annual insurance premium for the three Lexus vehicles currently being operated is \$4,500 per vehicle and the estimated insurance cost for the two additional vehicles proposed is \$3,500 per vehicle.

5. The annual cleaning and maintenance for the vehicles is estimated at \$6,000, annual property taxes are estimated at \$3,430 and the annual fuel estimate is \$18,000. Support staff for the business is estimated at \$3,333 and monthly rent is \$400.

6. As of May 27, 2009, the applicant had a cash balance in the amount of \$82,029.

7. As of June 11, 2009, John Braverman, owner of the applicant, had cash on hand in the amount of \$133,784, which he will use for the business if needed, in addition to a VISA line of credit in the amount of \$45,000.

8. Braverman has no criminal conviction history.

9. Braverman has enlisted the services of a consultant, Thomas Mazza, who has experience in establishing livery services in several states. Mazza is self-employed as a consultant for livery companies; he has also published driver/chauffeur training programs on video tape, which the applicant uses for its drivers.

10. Braverman has a background in the service industry through his experience in hotel and restaurant administration and he possesses business experience from his employment, for 10 years, as a senior vice president of a manufacturing company in Bristol. Braverman's responsibility as a senior vice president of the manufacturing company was the every day operation of the company, including customer service.

11. Joyce Kamanitz is a physician who is self-employed in Hartford. Kamanitz gives lectures across New England, including Connecticut. Kamanitz has been a friend of the applicant and the applicant's family for the past 10 years. Kamanitz supports the applicant in his business. She has used limousine service over the past four years, the last few months (from December 2008 through April 2009) from Connecticut to New Hampshire and Massachusetts. Kamanitz has experience less than acceptable service, in her opinion, and since she has used the applicant's interstate service, she would like to use the applicant for intrastate service.

12. John Potvin is a licensed certified accountant. He assisted Braverman in putting together the applicant's balance sheet and income statement for the applicant company and has worked for the applicant since January 2008. Potvin would use the applicant's proposed livery service if the application is granted.

13. Michael Grande has known Braverman for approximately 5 years. Grande uses livery services for his business and for individual purposes. Grande supports the applicant and plans to use the applicant for his intrastate livery needs because of Grande's business association with Braverman. Even though Grande has used other livery services, and has been accommodated in the past, he has had a negative experience with intrastate livery service and therefore he prefers to use the applicant's livery service.

14. Grande called an existing livery service on a holiday and the business did not answer the telephone.

15. The applicant has a webpage that lists its rates and advertises livery service for wedding day appointments and "Around Town" livery service. Intervenor King Limousine A, B and C and Intervenor Hollywood Exhibit A.

16. The intervening companies have not solicited the witnesses' business.

17. The witnesses who appeared at the hearing had not heard of any of the intervening companies.

18. None of the intervening companies operate from a headquarters in West Hartford.

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 prove that it is suitable to operate the proposed service 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 financial wherewithal, the applicant's representative, John Braverman, offered that the applicant received its interstate livery authorization a few months prior to the hearing. The applicant operates three motor vehicles in interstate service. The start up costs of operating an intrastate livery service would be minimal for the applicant since its three vehicles are already in operation. The applicant has sufficient funds to purchase two vehicles. In addition to the cash on hand, Braverman provided proof of personal finances and testified that he would be willing and able to use said finances for the proposed business, should it be required. The applicant provided proof of financial suitability.

In support of suitability, the applicant provided the requisite criminal conviction history form showing no criminal history for the owner/manager of the company. Braverman testified that he is willing and able to operate the proposed service, that he is familiar with the statutes and regulations governing livery operation in Connecticut. Notwithstanding the above with regard to suitability, the intervenors provided evidence showing that the applicant advertises intrastate livery rates on its website. When questioned about this particular fact, Braverman appeared surprised, but testified that intrastate trips could not be booked on the internet and that potential customers had to call the office, at which time they were told that their requests for intrastate livery service could not be accommodated.

Regardless of the fact that an intrastate trip cannot be booked on the applicant's website the information, by virtue of the fact that the information exists on the website at all, misrepresents to the public that the applicant can provide intrastate livery service. It leads the public to believe that the company can provide intrastate livery service, when, in fact, the company does not hold authority to do so. Moreover, Intervenor Exhibit A-Hollywood is a page from the applicant's internet advertising that describes the kinds of trips that the company can provide to the public, including weddings, medical appointments and "Around Town" transportation. These services are not remotely related to interstate livery.

Braverman and Kely Morrissey, the office employee who is responsible for day to day operations in the applicant's office, including the financial aspect and client services aspect of the business, both testified that intrastate trips could not be "booked" through the applicant's website and the website required work and tweaking and was not the final product. Braverman and Morrissey's testimony appeared to excuse the fact that the trip and rate information was provided on the website since the trips could not be booked. However, since the applicant did not hold intrastate service authority, any such advertisement is not proper and is not condoned by the department.

The applicant provided a "customer list" marked as Applicant's Exhibit Number 4, which purported to be a list of potential customers who called the

company for intrastate livery service. The list was compiled from calls to the applicant. Presumably people on this list called from the improper and misleading website advertising. While the record is silent as to this specific fact, the applicant's representatives testified that if people called regarding the advertised rates, they were advised that such service was not available – therefore it is not an unreasonable presumption and the representation of the owner that the management is willing to operate within the regulatory structure. Accordingly, the customer list will be given no weight in the determination of public convenience and necessity.

Notwithstanding the above, the applicant is found suitable to operate the proposed service, based on the owner's past experience in a service oriented field and management of a company as a senior vice president. Braverman testified that he would follow the rules, regulations and statutes governing livery service within Connecticut. Moreover, Braverman has taken an extra step to learn about livery service in the hiring of a consultant who has experience in establishing livery services in several different states.

Lastly, in support of public convenience and necessity, the applicant produced three witnesses who testified in support of the proposed service, including, John Potvin, the accountant for the company, Joyce Kaminitz, a physician friend of Braverman, who uses livery service for interstate travel and sometimes instate travel and , Michael Grande, another friend of Braverman, who testified that he uses livery service for instate travel and would use the applicant's service because of the prior business relationship that he has with Braverman.

Both Kaminitz and Grande testified that they use livery services and the last couple of times they used other livery companies, the service was adequate but not up to their expectations. Further, Kamanitz uses the applicant for interstate livery service and based on that "excellent" service that she described, she chooses to use the applicant for intrastate service.

The intervening companies argue that they have the ability and capability to provide services to anyone who seeks livery service. They argue that their businesses will be negatively affected by a grant of authority to the applicant. Moreover, they argue that there are enough livery providers in the area of concern and that the application should not be granted. The intervenors' arguments are unpersuasive. The fact that the intervenors may be negatively affected by the grant of authority in this matter is not a criterion which must be taken into consideration when weighing the evidence. Connecticut General Statutes Section 13b-103 does not contemplate the effect of the applicant's proposed livery business on existing livery businesses, nor the economic impact of the proposed livery business on the existing livery businesses. See *Med-Trans of Conn., Inc. v. Dept. Of Public Health and Addiction Services*, 242 Conn. 152 (1997.) Accordingly, these arguments are dismissed.

The intervenors' arguments that they have capacity to provide additional service and that there are plenty of livery operators in the area of concern is unpersuasive. First, none of the intervenors operate from a headquarters in West Hartford. This fact alone impacts the cost of livery service for people living in West Hartford by improving the convenience -- since livery rates are calculated to and from the headquarters town and livery services will necessarily be less for those living in West Hartford. In addition, because members of the public have different expectations from livery service, they choose one provider over another for various reasons, including promptness, cleanliness and even cost. The mere fact that a livery provider exists in the area of concern does not necessarily result in business for that provider. Moreover, where, in addition to other evidence, members of the public have had experience with an interstate provider and they prefer to use that provider for intrastate service, then the burden of proving public convenience and necessity is further met.

In conclusion, while the applicant has provided evidence to prove that the public's convenience and necessity will be improved by the proposed service, the evidence presented does not support a grant of four vehicles. Because the purported customer list is given no weight due to improper advertising, and because the witnesses testified that their need for intrastate service is not as great as interstate, one vehicle will fill the need that exists for the current public convenience and necessity.

Should the applicant find that the public's convenience and necessity will be improved by additional vehicles once it is in operation intrastate, it may apply for additional vehicles and so prove.

IV. CONCLUSION OF LAW

The evidence of record supports the conclusions that the applicant possesses the financial wherewithal to operate the proposed service, the applicant's management possesses the suitability to operate the proposed service and to operate within the confines of the rules and regulations and statutes governing the livery industry in Connecticut and that the public's convenience and necessity will be improved by a partial grant of authority for such livery service, in accordance with Connecticut General Statutes Section 13b-103(b).

V. ORDER

Based upon the forgoing findings of fact and conclusions of law and pursuant to Connecticut General Statutes Section 13b-103, as amended, the application of Go Elite Car, LLC hereby granted, in part, and Permit Number 3234 is issued in the name of Go Elite Car, LLC as follows:

LIVERY PERMIT NO. 3234
FOR THE OPERATION OF LIVERY SERVICE

Go Elite Car, 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 West Hartford, Connecticut.

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.

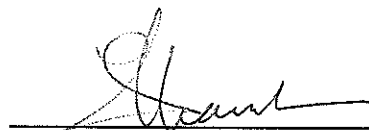
This Permit shall remain in effect until it is amended, suspended or revoked by the Department. Failure of the Permit holder to maintain proper insurance and/or comply with all pertinent motor vehicle laws and other State statutes and/or the rules, regulations and orders of the Department shall be considered 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 1st day of October 2009.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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