

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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

Phone:

(860) 594-2875

DOCKET NUMBER 1303-C-208-T
(Complaint No. TX03-1513-16)

RE: IN THE MATTER OF THE CITATION OF
NORWALK YELLOW CAB, INC.

Final Decision

September 20, 2013

I. INTRODUCTION

A. Background

On May 10, 2013, pursuant to Connecticut General Statutes Section 13b-97, as amended, the Department of Transportation (hereinafter "department") issued a Citation Notice to Norwalk Yellow Cab, Inc., P.O. Box 15, Darien, Connecticut (hereinafter "respondent"), holder of Taxicab Certificate Number 899. The Citation Notice ordered the respondent to appear before the department to answer allegations made therein.

The respondent was noticed to show cause as to why Certificate Number 899 should not be suspended, revoked, or a civil penalty imposed for violation of its taxicab certificate issued in accordance with Connecticut General Statutes Section 13b-97.

More specifically, the respondent is alleged to have violated the following Regulations of Connecticut State Agencies:

- Section 13b-96-27(4) – Unlawful operation of a taxicab
- Section 13b-96-41(c) – Operating in an unsafe condition
- Section 13b-96-43(b) – Seat damage
- Section 13b-96-43(b)(1) – Loose rear seat
- Section 13b-96-43(b)(2) – Clutter in front seat and trunk
- Section 13b-96-49(a) – Failing to inspect vehicle regularly

The citation was served upon the respondent by first class and certified mail and recited the department's reasons for issuing same.

B. Hearing

Pursuant to Section 13b-97 of the Connecticut General Statutes the public hearing for this citation was held on August 6, 2013.

Notice of the citation and of the hearing to be held thereon was given to the respondent and to such other parties as required by General Statutes Section 13b-103.

Pursuant to General Statutes Section 13b-17, the Commissioner of Transportation designated a hearing officer to conduct the hearing on this matter.

C. Appearances

Vito Bochicchio, Jr., owner, appeared without counsel on behalf of Norwalk Yellow Cab, Inc. Norwalk Yellow Cab, Inc.'s mailing address is P.O. Box 15, Darien, Connecticut.

Eugene Morris, Public Transit Inspector with the Regulatory and Compliance Unit of the Department of Transportation, presented the evidence on behalf of the agency.

D. Administrative Notice

Norwalk Yellow Cab, Inc. requested that this hearing officer take administrative notice of the following records of the department:

USA Taxi of Stamford
TX08-0712-12
Docket No. 1208-C-112-T

USA Taxi and Limo of Stamford
LV02-C-113-T
Docket No. 1208-C-113-L

Francisco J. Rendon d/b/a USA Limo
LV06-0210-23
Docket No. 0807-N-119-L

Francisco J. Rendon d/b/a USA Limo
TX08-0712-12
Docket No. 0807-N-119-L

USA Limo of Stamford, Inc.
LV08-0712-37
Docket No. 0902-C-18-T

Allways Transportation, LLC d/b/a Darien Taxi
TX04-0412-8
No docket number – action dismissed

Anytime Limo
Docket No. 1209-C-133-L

Fairfield County Transportation
Docket No. 1304-C-232-T

MAC Transportation
LV11-0410-20
Docket No. 1010-C-97-L

II. FINDINGS OF FACT

1. Eugene Morris is a Transportation Public Transit Inspector with the Department of Transportation.
2. On May 22, 2012, while conducting a joint taxicab compliance inspection with Department of Motor Vehicles at the Norwalk Rail Station, Morris inspected a taxicab bearing marker plate number T5225T.

3. The vehicle in question was registered to Norwalk Yellow Cab, Inc.
4. Norwalk Yellow Cab, Inc. is holder of taxicab Certificate Number 899 and is authorized to operate motor vehicles in taxicab service within and to and from Norwalk, Connecticut.
5. Morris found the vehicle in question to be operating unlawfully in that the driver did not possess the proper licensing; Morris found that the taxicab was being operated in an unsafe condition with exposed wires in the passenger area of the front seat; Morris found that the taxicab had a loose rear seat and seat damage and Morris found clutter in the front seat and trunk.
6. The condition of the vehicle would have been evident if the vehicle was inspected regularly.
7. The respondent received a warning ticket for the violations which required that the vehicle be inspected within 20 days of issuance of the ticket.
8. The respondent's driver corrected the licensing issue and was issued a properly endorsed license on May 25, 2012 by the Department of Motor Vehicles.
9. The vehicle was repaired, inspected by the Department of Motor Vehicles and placed back into service by May 25, 2012.
10. The respondent has not been cited for any violations since it was purchased by its owner, Vito Bochicchio in April 2010.. The respondent has not been cited with a violation for the past 8 years.
11. The respondent's owner did not dispute the violations, but for the regular inspection of its vehicles.

III. DISCUSSION

The Department of Transportation has jurisdiction over matters pertaining to the operation of motor vehicles in taxicab service in the State of Connecticut accordance with Connecticut General Statutes Section 13b-96, as amended.

Pursuant to Connecticut General Statutes Section 13b-97 the department may amend, or for sufficient cause suspend or revoke any such permit. Further, the department may impose a civil penalty on any person who violates any provision of the governing chapter or any regulation adopted under Section 13b-96, as amended, with respect to fares, service, operation or equipment, in an amount not to exceed one hundred dollars per day for each violation.

Eugene Morris testified that during a joint field inspection, he observed the violations listed above. The respondent, through its owner, Vito Bochicchio, testified that there was no

dispute that the violations occurred, except for the inspection of vehicles. Bochicchio testified that the respondent's vehicles are inspected in-house on a regular basis.

Bochicchio further testified that the driver had been out of the country for several months and so the vehicle's condition and the improper driver's license may have been missed during routine inspections because of that fact. Lastly, he argued that the citation was issued nearly a year after the violations occurred, despite the respondent's remediation of the violations within 3 days of the issuance of the citation.

The respondent asked this hearing officer to review certain documentation showing that that a first offender of the regulations should be offered a stipulated agreement and not be sent to hearing. In reviewing the documentation, I find that it is not relevant to making a determination in this case, under this set of circumstances.

IV. CONCLUSIONS OF LAW

The evidence in this matter shows that the respondent is holder of Certificate Number 899 and that the vehicle in question bearing marker plates T5225T is registered to the respondent. The evidence further shows that the respondent violated the terms of Certificate Number 899, issued in accordance with Connecticut General Statutes Section 13b-97 by failing to adhere to its requirements.

More specifically, the respondent violated its certificate by allowing its taxicab bearing marker plate T5225T to be driven unlawfully 1) by a driver who did not have the proper licensing in accordance with General Statutes Section 14-44 (because the driver failed to renew his license) in violation of Regulations of Connecticut State Agencies Section 13b-96-27(4); 2) for operating a taxicab vehicle in an unsafe condition with wires hanging out in the front passengers side of the vehicle; 3) for operating the vehicle with a tear in the seat; 4) for operating a vehicle with a loose rear seat; and 5) for operating a vehicle with clutter in the front seat and trunk, in violation of Sections 13b-96-41(c), 13b-96-43(b), 13b-96-43(b)(1), 13b-96-43(b)(2), and 13b-96-49, respectively.

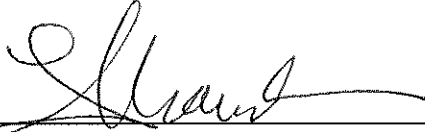
Notwithstanding the above, the record also shows that remediation was made by the respondent three days after the warning. Connecticut General Statutes Section 4-182(c) provides "No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given the opportunity to show compliance with all lawful requirements for the retention of the license. . ." The respondent's certificate will not be revoked, suspended, annulled or withdrawn. Further, since the respondent came into compliance within three days of the warning ticket, no civil penalty will be assessed. Lastly, because the hearing is remote in time to the incident and since the respondent was not provided an opportunity to come into compliance pursuant to Connecticut General Statutes Section 4-182(c), the complaint will be dismissed.

V. ORDER

Based on the foregoing, Complaint No. TX03-1513-16 is hereby dismissed.

Dated at Newington, Connecticut on this the 20th day of August 2013.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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