

(860) 594-2875

DOCKET NO. 1507-N-91-L

RE: APPLICATION OF BARRETT LIMO, LLC TO OPERATE ONE (1) MOTOR VEHICLE, HAVING A SEATING CAPACITY OF LESS THAN ELEVEN (11) ADULTS, IN GENERAL LIVERY SERVICE BETWEEN, ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN OXFORD, CONNECTICUT.

FINAL DECISION

February 25, 2016

## I. INTRODUCTION

### A. Application

By application filed on July 31, 2015 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, Barrett Limo, LLC (hereinafter "applicant") located at 21 Tram Drive, Oxford, Connecticut seeks authorization to operate one (1) motor vehicle, having a seating capacity of less than eleven (11) adults, in general livery service between all points in Connecticut from a headquarters in Oxford, Connecticut.

### B. Hearing

Pursuant to Connecticut General Statutes, Section 13b-103(a), as amended, a public hearing on this application was held on February 4, 2016.

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. Legal notice to the public was given by publication on the department's website at [www.ct.gov/dot](http://www.ct.gov/dot).

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

### C. Appearances

Christopher Arpie, owner of the applicant company, appeared on its behalf without counsel. The applicant's mailing address is 21 Tram Drive, Oxford, Connecticut 06478.

Alexander Lerz, owner of Carriage Limousine Service, Inc. and holder of livery permit number 2343, appeared in opposition to the application. Carriage Limousine, Inc. operates twelve vehicles in livery service from a headquarters in Oxford. Carriage Limousine, Inc. was not afforded intervenor status in that it did not provide notice to the applicant of its intention to intervene, but Lerz was allowed to participate and question the applicant and make a statement for the record.

## II. FINDINGS OF FACT

1. The applicant is currently holder of livery permit number 3474 and is authorized for, and is operating, one motor vehicle in interstate livery service from a headquarters in Oxford.

2. The applicant has a Lincoln MKT sedan that he is currently using in interstate service which he will use for his business; he will not be required to purchase a vehicle to expand his service in-state.

3. The applicant provided proof of income for a two month period which averages approximately \$6,180 per month; \$18,541 per a six month period.

4. The applicant is currently meeting its expenses of a monthly payment for insurance in the amount of \$409 or \$2,452 for a six month period; maintenance of \$150 because the car is in excellent condition; a car loan of \$2,066 for a six month period; communications at a cost of \$3,600 for a six month period. The ability to provide intrastate livery services would not significantly increase the applicant's operating costs.

5. The applicant's management member has no criminal conviction history.

6. The applicant has turned down requests for intrastate trips because he does not hold authority to provide intrastate livery.

7. The Economic Development Director for the town of Oxford sees the proposed business as an asset to the community.

8. The applicant's ability to provide its interstate customers with local livery transportation will be of benefit to the local community.

9. Alexander Lerz, owner of Carriage Limousine Service, Inc. is opposed to the application on the basis that a grant of intrastate authority to this company would result in more competition in the livery market in Oxford; Lerz believes that there are enough vehicles to meet the need in the area of concern.

### 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 show the suitability of the applicant 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.

Additional factors to take into consideration when determining if a grant of livery authority should be made include whether the service will benefit the relevant class of users, whether the proposed service is more efficient, more economical, more convenient, more satisfactory, or different than the services offered by the existing service providers, whether the

new service would create a potentially beneficial effect upon rates and customer service and whether the acquisition of equipment would be more suitable to customer needs, whether the population in the area that the applicant proposes to service is increasing, whether potential customers have requested a service like that suggested by the applicant, and whether the proposed service will improve the existing mode of transportation as recently defined in *Steve Martorelli v. Department of Transportation*, 316 Conn. 538 (2015). Further, the court in *Martorelli* made it clear that the “. . . diversion of revenue from existing carriers by additional competition” is not a valid reason by itself to justify a denial of additional authority” so that the fact that this applicant would provide competition to Carriage Limousine, Inc. is not enough to deny the application.

The applicant indicated that it would provide service with a top of the line vehicle, a Lincoln MKT sedan, which Carriage Limousine, Inc. does not operate. Arpie testified that with the intrastate authority, the applicant would be able to provide intrastate service to current clients who have asked for such service. Arpie testified that the applicant would provide a higher quality of livery service than is offered and further, there was evidence on the record that the population of the area of concern is fast growing and development is forthcoming and that the addition of this livery service would benefit the public convenience and necessity of the general public.

The applicant will not incur significant additional expenses by providing intrastate livery service in that it is already in operation. The applicant’s monthly income more than covers its expenses, making the applicant financially suitable to operate the proposed service.

Lastly, the applicant has no criminal conviction history and has not been involved with any citation matters or criminal matters since the date of Arpie’s criminal conviction history form.

#### IV. CONCLUSION OF LAW

The evidence of record supports the conclusions that the applicant possesses the financial wherewithal to operate the proposed intrastate service, the applicant possesses the suitability to operate the proposed service, and the public’s convenience and necessity will be improved by a grant of intrastate authority.

#### V. ORDER

Based upon the foregoing and pursuant to Connecticut General Statutes Section 13b-103, as amended, the application of Barrett Limo, LLC is hereby granted and Permit Number 3474, standing in the name of Barrett Limo, LLC is hereby amended and reissued as follows:

#### LIVERY PERMIT NO. 3474 FOR THE OPERATION OF LIVERY SERVICE

Barrett Limo, LLC is hereby permitted and authorized to operate ONE (1) motor vehicle, having a seating capacity of less than eleven (11) adults, in GENERAL LIVERY SERVICE between all points in Connecticut from a headquarters in Oxford, Connecticut.

Barrett Limo, LLC is further permitted and authorized to operate motor vehicles as a common carrier of passengers, in charter and special operations, in interstate commerce under such authorization as issued or amended by the Federal Motor Carrier Safety Administration in the issuance of Certificate No. MC-901313-C.

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, on this 25<sup>th</sup> day of February 2016.

CONNECTICUT DEPARTMENT OF TRANSPORTATION

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