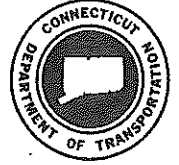




STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

Phone:

(860) 594-2875

DOCKET NO. 1705-N-42-L

RE: APPLICATION OF ABOVE AVERAGE, LLC TO OPERATE FIVE (5) MOTOR VEHICLES, HAVING A SEATING CAPACITY OF LESS THAN ELEVEN (11) PASSENGERS, IN GENERAL LIVERY SERVICE BETWEEN ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN EAST HAVEN.

DECISION

November 27, 2017

## I. INTRODUCTION

### A. APPLICATION

By application filed on May 17, 2017, with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, Above Average, LLC (hereinafter "applicant") with a mailing address of 77 Venice Place, East Haven, Connecticut 06512 seeks authorization to operate five (5) motor vehicles, having a seating capacity of less than eleven (11) passengers, in general livery service between all points in Connecticut from a headquarters in East Haven.

### B. HEARING

Pursuant to Connecticut General Statutes, Section 13b-103, as amended, a public hearing on this application was held on November 7, 2017.

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 Connecticut General Statutes Section 13b-103, as amended. Legal notice to the public was given by publication on the department's website.

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

### C. APPEARANCES

Cedric and Linda Baylor appeared pro se on behalf of the applicant. The applicant's mailing address is 77 Venice Place, East Haven, Connecticut 06512.

## II. FINDINGS OF FACT

1. The applicant seeks to operate five (5) motor vehicles in livery service from a headquarters in East Haven.

2. Both of the applicant members work for the State of Connecticut. Linda Baylor is a probation officer while her husband, Cedric, is a social worker. Mrs. Baylor will work in the business part-time while her husband will quit his job and work full-time in the livery business.

3. Both of the applicants have public service licenses and will drive in the business. The applicant has also identified two other drivers for the business.

4. The applicant has \$35,023 in a business bank account.

5. The applicant only has the sufficient financing for three (3) vehicles. The applicant is

proposing to operate a 2010 Lincoln Town Car, a 2011 Lincoln Town Car and a 2013 Chevy Suburban.

6. The applicant's first six months of expenses to operate three vehicles includes: insurance of \$19,472, maintenance costs of \$600, property tax of \$1,179, vehicle payments of \$3,066, payroll costs of \$10,400 and communication costs of \$240 for a total expense of \$34,957.

7. The applicants are currently farming out any business they receive to two established livery companies, Silver City and Dark Knight Limo.

8. Mr. Baylor has been driving part-time for another livery company for the past few months.

9. The applicant's seek to provide extra customer service including door to door transportation which would involve the driver moving the passenger's luggage.

10. The applicant has transported several celebrity clients who have expresses an interest in utilizing their livery service again.

11. Stevi McCray is the president of San Kofa International Premier Travel in Branford. He arranges travel packages for groups and individuals. He is looking to use the applicant for the transportation portion of the travel package. Other livery companies he has tried are too expensive.

12. This application was not opposed.

### 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 Connecticut 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 Connecticut General Statutes Section 13b-103.

Some factors to consider in granting a livery permit are 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 defined in Martorelli v. Department of Transportation 316 Conn. 538 (2015).

To show financial support, the applicant submitted information that the applicant's first six months of expenses for three vehicles as follows: \$19,472 for insurance, \$600 for maintenance, \$1,179 for property tax, \$3,066 for vehicle payments, \$10,400 for payroll and \$240 for communication for a total expense of \$34,957. The applicant has \$35,023 in a bank account which is sufficient to cover the cost for three (3) vehicles.

Regarding the applicant's suitability, a criminal record check was performed for both Linda and Cedric Baylor which shows no criminal record. The applicants have been operating a livery referral service and Mr. Baylor has been driving for a livery company for the past few months. The applicant has the fitness, willingness and ability to conform to the provisions of the statutes and the requirements and regulations of the department.

To prove public convenience and necessity, the applicant presented the testimony of Mr. McCray, who is in the travel industry. He expressed an interest in using the applicant for travel packages. The price point of the transportation needs to be kept low and he believes the applicant can provide that lower cost transportation. Mr. McCray has also personally been driven by Mr. Baylor and he also testified that he provides good customer service.

## VI. ORDER

Based upon the above and pursuant to Connecticut General Statute Section 13b-103, as amended, the application, standing in the name of Above Average, LLC, is hereby granted in part and Livery Permit Number 3618 is hereby issued as follows:

### **LIVERY PERMIT NO. 3618**

Above Average, LLC is authorized to operate three (3) motor vehicles, having a seating capacity of less than eleven (11) passengers, in general livery service from a headquarters in East Haven.

### **RESTRICTIONS:**

**The applicant must register and insure the three (3) additional vehicles granted under this decision within forty-five (45) days from the date of this decision.**

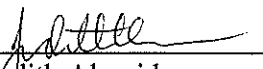
This permit may not be sold or transferred until it has been operational, i.e. a vehicle registered with livery plates thereunder for not less than twenty-four (24) months. If at any time

during the twenty-four consecutive month period the applicant enters into a contract for the sale of the vehicle authorized under livery permit number 3618, the authority granted herein for the three (3) additional vehicles will be revoked.

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 rules, regulations and orders of the department shall be considered sufficient cause to amend, suspend or revoke said permit.

A memorandum of this permit, bearing the seal of the department, shall be conspicuously posted in each motor vehicle operated under this permit.

CONNECTICUT DEPARTMENT OF TRANSPORTATION

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