



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. 0806-N-103-T

RE: APPLICATION OF WALEED ASSAD D/B/A TAXI AND AIRPORT
TRANSPORTATION TO OPERATE THREE (3) MOTOR VEHICLES, IN
TAXICAB SERVICE, WITHIN AND TO AND FROM NEW HAVEN, EAST
HAVEN, AND WEST HAVEN, TO ALL POINTS IN CONNECTICUT.

FINAL DECISION

July 24, 2009

I. INTRODUCTION

A. Applicant's Proposal

By application filed on June 2, 2008, with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-97 of the Connecticut General Statutes as amended, Waleed Assad d/b/a Taxi and Airport Transportation (hereinafter "applicant") of West Haven, Connecticut, seeks authorization to operate three (3) motor vehicles, in taxicab service, within and to and from East Haven, New Haven and West Haven to all points in Connecticut.

B. Hearing

Pursuant to Section 13b-97(a) of the General Statutes, as amended, on June 2, 2009 a public hearing on this application was held at the administrative offices of the Department in Newington, Connecticut.

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 General Statutes, as amended. Legal notice to the public was given by publication in the New Haven Register, a newspaper having circulation in the area of concern.

The hearing on this matter was conducted by a hearing officer, designated by the Commissioner of Transportation, pursuant to General Statutes Section 13b-17.

C. Appearances

Waleed Assad appeared on his own behalf, without an attorney. The applicant's mailing address is 76 Fenwick Street, Apartment B, West Haven, Connecticut. Assad was represented by Antoine Scott, managing partner of Plan B Solutions. Scott's mailing address is P.O. Box 554, New Haven, Connecticut.

Transportation General d/b/a Metro Taxi (hereinafter "Metro Taxi"), holder of taxicab certificate number 86, filed a petition for intervenor status. Metro Taxi, whose mailing address is P.O. Box 26094, West Haven, Connecticut, appeared through Jared Whitcomb, the company's operations manager. Metro Taxi was represented by Mary Alice Moore Leonhardt, Esq. whose mailing address is 67 Russ Street, Hartford, Connecticut. Metro Taxi operates taxicabs in East Haven, New Haven and West Haven and was granted intervenor status in said towns.

Rene Hughes d/b/a Lucy's Taxi, holder of taxicab certificate number 1173, filed a petition for intervenor status. Lucy's Taxi, whose mailing address is 445 Front Avenue, West Haven, Connecticut, appeared through Rene Hughes, its owner. Lucy's Taxi operates in East Haven, New Haven, West Haven and Hamden. Lucy's Taxi was granted intervenor status in East Haven, New Haven and West Haven.

Sheldon Lubin, utilities examiner with the Regulatory and Compliance Unit of the department, appeared at the hearing.

D. Administrative Notice

Cease and desist order issued to the applicant in *Application of Julio Acevedo d/b/a Acevedo Taxi Cab To Operate One (1) Motor Vehicle in Taxicab Service Within And To And From Branford, East Haven, New Haven, North Haven, Orange And West Haven To All Points In Connecticut*, Department of Transportation Final Decision, Docket No. 0803-N-62-T (April 28, 2009).

The records of the department show, and administrative notice is taken of, the following taxicab companies authorized to operate taxicabs within and to and from East Haven, New Haven and West Haven:

Alfonson S. Campoverde d/b/a A.C. Express Taxi - Certificate No. 1199
-authorized to operate **1 taxicab within and to and from Hamden and New Haven.**

Donel Ballard d/b/a Quick Taxi - Certificate No. 1163
-authorized to operate **2 taxicabs within and to and from Hamden, New Haven and West Haven.**

Bulldog Taxi, LLC - Certificate No. 1207
-authorized to operate **1 taxicab within and to and from Cheshire, Hamden and New Haven.**

Citywide Taxi, LLC - Certificate No. 1175
-authorized to operate **2 taxicabs within and to and from Hamden and New Haven.**

Coastal Transportation & Lodging Corp d/b/a New Haven-Milford Taxi Cab Co.-
Certificate No. 99
-authorized to operate 6 taxicabs within and to and from Milford and Orange and **6 taxicabs within and to and from New Haven, East Haven & West Haven.**

Easy-One Taxi, LLC d/b/a Easy-One Taxi - Certificate No. 1159
-authorized to operate **5 taxicabs within and to and from Cheshire, Hamden and New Haven.**

Edward Earl Suggs d/b/a Yellow Taxi - Certificate No. 1205
-authorized to operate **2 taxicabs within and to and from East Haven, Hamden, New Haven, North Haven and Wallingford.**

Flavio Q. Zea d/b/a FK Taxi - Certificate No. 1201
-authorized to operate **1 taxicab within and to and from Hamden, New Haven and West Haven.**

Heritage Livery Service, Inc. d/b/a Heritage Taxi - Certificate No. 1149
-authorized to operate **5 taxicabs within and to and from Branford, New Haven, East Haven and West Haven**, 1 of which can be used within Hamden; 2 taxicabs within and to and from Milford.

Horizon Cab Co., LLC - Certificate No. 1169
-authorized to operate **2 taxicabs within and to and from Hamden, New Haven and West Haven.**

Renee Hughes d/b/a Lucy's Taxi - Certificate No. 1173
-authorized to operate **2 taxicabs within and to and from East Haven, Hamden, New Haven and West Haven.**

J & F Express, LLC, - Certificate No. 1155
-authorized to operate **1 taxicab within and to and from Hamden, New Haven and West Haven.**

Rizek, David N & Rizek, Elias J d/b/a Dominican U.S.A. Taxi Company - Certificate No.1206
-authorized to operate **2 taxicabs within and to and from Hamden, New Haven and West Haven.**

Salahuddin Khan d/b/a Connecticut Taxi - Certificate No. 1178
-authorized to operate **3 taxicabs within and to and from Hamden, New Haven and West Haven.**

Segundo Aguayza d/b/a Equamex Taxi - Certificate No. 1160
-authorized to operate **4 taxicabs within and to and from East Haven, Hamden, New Haven and West Haven.**

Transportation General, Inc. d/b/a Metro Taxi - Certificate No. 86
-authorized to operate **116 taxicabs in East Haven and New Haven, 107 of the one hundred sixteen can be used in Hamden, West Haven and Woodbridge**; 6 of the one hundred sixteen can be used within and to and from Branford and North Branford; 2 taxicabs within and to and from North Haven; 2 of the one hundred sixteen can be used in Orange and Milford; 17 taxicabs within and to and from Meriden; 4 taxicabs can be used in Wallingford.

Michael Wolkovitz d/b/a Checker Cab Co. - Certificate No. 240
-authorized to operate **3 taxicabs within and to and from New Haven.**

II. FINDINGS OF FACT

1. Waleed Assad, owner of the applicant company, has been driving a taxicab twelve to thirteen years, in different towns, including Milford, Orange, New Haven and Hamden.
2. Assad currently operates his own vehicle as an owner/operator, registered under taxicab certificate number 240, standing in the name of Checker Cab Co.
3. Assad is seeking authority for three vehicles in taxicab service. Assad will continue operating his car as a taxicab for Checker Cab Co. if the application is approved.
4. Checker Cab Co. does not dispatch calls to Assad, but rather refers callers to Assad's cell phone number.
5. Assad has no felony convictions within the last ten years.
6. Assad's annual insurance cost estimates for the proposed taxicabs is \$5,340 per vehicle.
7. The applicant provided proof of cash in the amount of \$12,558. Assad owns three vehicles outright.
8. Assad's total assets equal \$27,063.
9. Assad testified that he was providing approximately 15 to 20 jobs per day in New Haven when he filed an application to start his own taxicab business; however no trip sheets were entered into evidence to support this statement.
10. Assad has spoken to several people who are potential drivers for the proposed business.
11. Assad operates a taxicab under the name of Action Taxi, which has no taxicab certificate.
12. Assad operates a taxicab under the name of Taxi and Airport Transportation, which has no taxicab certificate.
13. Assad provides a business card to each customer. The business card lists Action Taxi and Assad's telephone number and he provides receipts to his customers that are printed with the Assad's name and the name Action Taxi, rather than Checker Cab Co.
14. Assad opened a bank account in the name of Taxi and Airport Transportation.

15. Assad has a Bank of America account under the name of Action Taxi.

16. Rebecca Hoyt had a problem getting a Metro Taxi one day last winter, but she was accommodated by another taxicab company.

17. Michael Simmons, a prior taxicab driver, testified in support of the free market system and his belief that anyone should be able to operate his/her own company if he/she had the wherewithal to do so.

18. Patrice McCurry will be the business manager for the applicant. Although in the past she has had need for taxicab service, she does not use taxicab service on a consistent basis currently.

19. Ronal Moye, lives in New Haven and used to drive for Metro Taxi, but was fired from the company approximately two months prior to the instant hearing.

20. The applicant, Lucy's Taxi and Metro Taxi all average approximately 10 to 15 calls per taxicab per day.

III. DISCUSSION

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

With respect to any convictions of the applicant under federal state and local laws relative to safety, motor vehicle and criminal violations, the applicant's owner, Assad, has a misdemeanor conviction which is remote in time and will not be held against the applicant's suitability. The applicant has no motor vehicle violations. As for the number of taxicabs to be operated, the applicant seeks authority to operate three taxicabs. Assad will also continue to operate a vehicle under lease with Checker Cab.

Assad provided proof of cash in the amount of \$12,558 and assets in the amount of \$27,063. Insurance estimates for the requisite insurance coverage for a taxicab were submitted, as were operational cost estimates. The applicant has the financial wherewithal for start up costs for the proposed service for two vehicles since the applicant will continue to use a third car with Checker Cab and to pay a lease fee.

As for public convenience and necessity, the applicant fails to meet its burden. One witness testified that she was unable to get a ride from Metro Taxi, but was accommodated by another taxicab company. Further, some of the witnesses who testified were former drivers for Metro Taxi and who had either been fired or had other issues with Metro Taxi. The witness statements were not credible and given little weight in the determination of public convenience and necessity based on the apparent bias against Metro Taxi rather than concrete evidence of the lack of taxicab service in the areas of concern.

Administrative notice was taken of *Application of Julio Acevedo d/b/a Acevedo Taxi Cab To Operate One (1) Motor Vehicle in Taxicab Service Within And To And From Branford, East Haven, New Haven, North Haven, Orange And West Haven To All Points In Connecticut*, Department of Transportation Final Decision, Docket No. 0803-N-62-T (April 28, 2009), in which Assad testified in support of another taxicab applicant before this hearing officer. The findings in that final decision were that Assad accepted calls from three taxicab companies because there was not enough work to keep him busy. Interestingly, two months later, Assad comes before the department to apply for a taxicab certificate in support of which Assad must prove that the public convenience and necessity requires the addition of taxicabs. Assad's testimony is not persuasive and in light of past testimony, not believable.

Lastly, as to other issues that impact the suitability of an applicant to operate a taxicab company, such as operating within the confines of the regulatory scheme for taxicab service, the applicant is found to be lacking. By the applicant's admission on the record and under oath, the applicant has been operating his car as an owner/operator with Checker Cab Co., but doing so under the auspices of other names, such as Action Taxi and Taxi and Airport Transportation, neither of which purported companies have a certificate of public convenience and necessity to operate legally.

Moreover, Assad was a witness in a taxicab case held prior to the instant matter, in which he testified that he operated and advertised under a company name that was not authorized to operate taxicab service within the State of Connecticut. At the prior hearing, this hearing officer issued a cease and desist order to Assad, by which he was to cease and desist operating and advertising taxicab service under company names that did not hold certificates of public convenience and necessity. *Application of Julio Acevedo, supra*. By Assad's testimony, he stopped advertising under Action Taxi but the evidence shows that Assad did not stop operating under the name of Action Taxi, and further, he began operating under the name of Taxi and Airport Transportation, prior to receiving authority to do so. The applicant has shown a lack of understanding, or a willful disregard

of the rules and regulations that must be followed when operating a taxicab company.

Much argument was made by the applicant that he is an independent contractor as determined in *Hanson v. Transportation General, Inc. d/b/a Metro Taxi (Case No. 3001 CRB-3-95-2) - October 18, 1996*. The status of independent contractor carries no weight in the determination of whether the applicant meets the requirements for a certificate of public convenience and necessity. The status of independent contractor does not vitiate the burden of proving the elements of the statute for such authority, nor does it obviate the need of an applicant, operator or owner to follow the mandates of regulations and statutes governing taxicab operation in Connecticut. The fact that Assad did not cease and desist his purported company's illegal operation goes directly to, and weighs against, the applicant's suitability.

Regardless of whether a person is considered an independent contractor, that person is under the same obligations to operate legally. Assad has the obligation to provide service under the name of Checker Cab Co., the company under whose certificate Assad is operating. Members of the public should expect that when they call a specific company, they will receive service from that specific company.

The intervenors arguments are given little weight in the determination of the issues as there was no substantive evidence to support their arguments that there is no public convenience and necessity that requires the addition of taxicabs in the areas of concern.

IV. CONCLUSIONS OF LAW

Based upon the above and pursuant to Connecticut General Statutes Section 13b-97, as amended, while the applicant has no criminal conviction history and the applicant possesses the financial wherewithal to operate the proposed service with one, perhaps two taxicabs, and the applicant's insurance and safety equipment is adequate and the applicant has spoken to potential drivers, the applicant fails to meet the suitability requirement relative to operating within the confines of the statutes and regulations that govern taxicab operation. The applicant, after being admonished in a prior hearing, not to advertise in another name or work under another taxicab company without a certificate, the applicant continued to do so. Waleed Assad works for a taxicab company as an owner operator. Regardless of whether he sees himself as an independent contractor, he must still follow the statutes and regulations that are set out clearly and which forbid the operation of a taxicab without the proper licensing. Although Assad argues that he had the proper licensing, this hearing officer is not persuaded – Taxi and Airport Transportation does not have a certificate in its name, nor does Action Cab.

The applicant is herein advised to operate his taxicab in accordance the certificate of public convenience under which his vehicle is registered.

V. ORDER

Based on the above, the application standing in the name of Waleed Assad d/b/a Taxi and Airport Transportation is hereby denied.

Further, it is hereby ordered that Waleed Assad d/b/a Taxi and Airport Transportation cease and desist from operating his taxicab under any other name than that of Checker Cab.

Lastly, Michael Wolkovits, owner of Checker Cab, is hereby ordered to ensure that the drivers for his company are driving and identifying themselves as Checker Cab drivers. Failure to do so may lead to suspension or revocation of Certificate No. 240 or civil penalties imposed for failure to operate the company within the regulatory scheme for a taxicab business.

This final decision constitutes notice in accordance with Connecticut General Statutes Section 4-182(c).

Dated at Newington, Connecticut, on this 24th day of July 2009.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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Administrative Law Unit
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