



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

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DOCKET NUMBER 1104-C-35-T

RE: IN THE MATTER OF THE CITATION OF FAIRFIELD CAB CO.

Final Decision

January 20, 2012

I. INTRODUCTION

A. General

By citation dated November 21, 2012, by the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes Section 13b-97, as amended, Fairfield Cab Co. (hereinafter "respondent"), holder of Certificate Number 1040, was ordered to come before the department to answer the allegations made therein.

Pursuant to said citation, the respondent was directed to appear at the Newington office of the Department of Transportation to show cause why Certificate Number 1040, issued for the operation of taxicab service, should not be suspended or revoked or a civil penalty imposed for violation of its certificate pursuant to Connecticut General Statutes Section 13b-96, et seq.

More specifically, it is alleged that the respondent violated the following Regulations of Connecticut State Agencies:

1. 13b-96-4 Knowledge of Regulations
2. 13b-96-11 Proper Conduct
3. 13b-96-22 Registration and Insurance
4. 13b-96-27 Unlawful Operation of a Taxicab
5. 13b-96-29 Notification of Conviction or Suspension
6. 13b-96-32 Driver Identification and Comment Card
7. 13b-96-37 Setting Rates of Fare
8. 13b-96-38 Taxi Meter
9. 13b-96-41(9) (c) Operating an Unsafe Cab
10. 13b-96-43 Appearance of Taxicabs
11. 13b-96-49 Vehicles to be Inspected Regularly

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

B. Hearing Held

Pursuant to Section 13b-96 of the Connecticut General Statutes, as amended, the public hearing for this citation was originally to be held on June 22, 2011. The department granted respondent's first request for continuance to August 30, 2011. A second request for continuance was granted to November 8, 2011. A third request for continuance was granted and the hearing was scheduled for January 10, 2012. A fourth request for a continuance was made shortly before the hearing and denied. At the hearing the respondent stated that it needed a continuance to locate an attorney. The prior two attorneys used by the respondent sent letters to the department withdrawing themselves from the matter. The respondents have had more than enough time to prepare for this hearing and find legal counsel. The respondent was given a continuance for almost seven months from the first scheduled hearing date in June 2011, therefore the fourth request for a continuance was denied.

Notice of the citation and the hearing to be held thereon was given to the respondent and to such other parties as required by Connecticut General Statutes Section 13b-96, as amended.

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

C. Appearances

Arthur and Margret Castellucci appeared pro se at the hearing. The respondent's mailing address is 43 Woodcrest Avenue, Trumbull, Connecticut 06611.

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

Sargent Keith Franson from the Department of Motor Vehicles testified as a witness. Sargent Franson's address is 60 State Street, Wethersfield, Connecticut 06161.

Sargent Hector Irizarry from the Fairfield Police Department appeared as a witness in this matter. Sargent Irizarry's address is 100 Reef Road, Fairfield, Connecticut 06824.

Detective Kerry Dalling from the Fairfield Police Department appeared as a witness in this matter. Detective Dalling's address is 100 Reef Road, Fairfield, Connecticut 06824.

II. FINDINGS OF FACT

1. The respondent is the holder of Certificate 1040 in the name of Fairfield Cab Co. and is authorized to operate twelve motor vehicles in taxicab service in Fairfield.
2. On March 28, 2011, the Department of Transportation and the Department of Motor Vehicles performed a joint inspection of taxicabs at the Fairfield Train Station.
3. Out of the respondent's six vehicles that were inspected, all six failed. Three of respondent's taxicabs were taken out of service. Once a written warning is issued, the certificate holder has to have the vehicle repaired within twenty days and then inspected at one of three Department of Motor Vehicles inspection sites.
4. On April 7, 2011, Department of Motor Vehicles Inspector Cortez returned to perform re-inspections of the vehicles after hearing that the vehicles had been placed into service without having the proper repairs made. The inspector found that two of the vehicles originally cited still had various violations, T2057T which was not to be operated because of the vehicles age and T3031T. The inspector confiscated the license plates for T2057T.
5. The respondent's claim that they want to sell the business and will be able to produce a sales contract with a buyer within thirty days.
6. The respondents claim the severe winter and their health problems have delayed repair of the vehicles. They also claim that body work on their cars is only done during the spring and summer. The inspection dates which generated this citation were in the spring in March and April. The respondents also claimed they did not realize their vehicles had extensive body damage.
7. A review of the inspected vehicles reflects that taxicab plate T2057T is a 2000 Chevy Impala which had various defects including that it was over ten years old and should not have been operated as a taxicab in violation of regulation 13b-96-42. In addition, it had mechanical defects such as no sealed meter, no wheel covers, no driver ID and extensive body damage including a right side missing door panel, a rusted area near the right seat with sharp edges, a rusted right side rocker panel and a right defective rear window which are violations of regulations 13b-96-43, 13b-96-32, 13b-96-38 and 13b-96-41.
8. A review of taxicab plate T3031T reflects that the vehicle is a 2002 Chevy Impala with a broken windshield, no comment card, ID or fire extinguisher and the meter was not sealed in violation of regulations 13b-96-32, 13b-96-43, 13b-96-38 and 13b-96-41.
9. A review of taxicab plate T3033T reflects that it is a 2001 Chevy Lumina with various mechanical issues such as left outside tie rod end, rusted left and right rocker panels, rusted left rear fender with a sharp edge, broken right rear tail light, broken motor mount, damaged rear seat and no ID or comment card in violation of regulations 13b-96-32, 13b-96-41 and 13-96-43.
10. A review of taxicab plate number T3598T reflects that it is a 2006 Chevy Impala with no comment card or ID, no posted rates, no marker light and the meter was not sealed in violation of regulations 13b-96-32, 13b-96-43 and 13b-96-38.

11. A review of taxicab plate T2025T reflects that it is a 2006 Chevy Impala with no driver ID or comment card, no posted rates, a broken exterior dome light and rear tire with inadequate tread in violation of regulations 13b-96-32, 13b-96-37, 13b-96-41 and 13b-96-43.

12. A review of taxicab plate T3620T shows that it is a 2005 Chevy Impala with a bad gas cap, no sealed meter, cut open left rear quarter panel, no rate card, comment card or ID, no registration and no dome light in violation of regulations 13b-96-22, 13b-96-32, 13b-96-41, 13b-96-43 and 13b-96-97.

13. The respondent has failed to inspect its vehicles every three months as required by regulation 13b-96-49.

14. On July 5, 2011, one of respondent drivers, Joseph Sistrunk was arrested for procuring alcohol for minors and risk of injury to minors in a Fairfield Cab. The events were testified to by Sargent Hector Irizarry, a member of the Fairfield Police force.

15. On February 14, 2011, one of respondent's drivers, Bruce Northrop, sexually assaulted a woman in a Fairfield Cab. These events were testified to by Detective Kerry Dalling, a member of the Fairfield police force.

16. Out of the twelve taxi certificates that were issued under certificate number 1040, only three vehicles are currently active, registered and insured.

17. Even though the company has been in operation since 1976 by the Castellucci family, the respondent is unfamiliar with the rules and regulations for taxicab service in violation of regulation 13b-96-4.

III. DEPARTMENT ANALYSIS

The Department of Transportation has jurisdiction over matters pertaining to the operation of motor vehicles in taxicab service in the State of Connecticut in 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.

The facts are clear in this case and for the most part are not contested by the respondent. On March 28, 2011, the Department of Motor Vehicles (hereinafter "DMV" and the Department of Transportation (hereinafter "DOT") went to the Fairfield Train Station to do spot inspections of taxicabs at the facility. The two departments often perform these types of inspections together and have done so for years around the state. The respondent had six taxicabs inspected that day, none of which passed inspection. The DMV issued six tickets and three out of the six vehicles were taken out of service. Out of service vehicles need to be repaired and not used until the repairs are completed and the cabs were to be re inspected.

A second inspection by DMV resulted in the taxicab with plate T2057T still having mechanical issues and being used in operation even though it had exceeded the ten year time limit. The driver of this vehicle, Malcolm Yank, told Inspector Cortez that the company told him to drive this defective vehicle. The other taxicab reexamined was T3031T which still had defects outstanding. The respondent is in violation of Regulations of Connecticut State Agencies Section 13b-96-4, 13b-96-11, 13b-96-22, 13b-96-27, 13b-96-29, 13b-97-32, 13b-96-37, 13b-96-38, 13b-96-41, 13b-96-43 and 13b-96-49.

The evidence is overwhelming that most of the respondent's fleet was in deplorable condition and in violation of various taxicabs regulations. The body damage was extensive and created a danger to the public in addition to the numerous mechanical defects which plagued the fleet as a whole.

The oft mentioned hard winter was cited for these defects but body rot of this nature does not occur in a matter of months. When asked about the three month inspections the respondent is required to perform under DOT regulation 13b-96-49, respondent kept talking about DMV inspections that has occurred in the past. Either the respondent never looked at the vehicles or just closed a blind eye to had bad things had gotten but in either case, the violations are apparent.

The evidence of record shows that the respondent is failing to operate properly on almost every level. In addition to the gross mechanical violations present in the cars, illicit activities are also being performed in the respondent's taxicabs. Two cases in particular, drivers sexually assaulting passengers and procuring alcohol for minors are outrageous and a gross violation of the public's trust and in violation of regulation 13b-96-27.

The respondents' testified that they did not know what the drivers were doing in violation of regulation 13b-96-29. There is no control over the drivers' by the respondent. One of the drivers discussed had a history of various problems with the law and should long ago have been terminated. The company is operating a free for all with no oversight. The taxicabs are in deplorable condition and the owners do not know the rules and regulations despite being in the taxicab business since 1976.

It is clear that the respondent can no longer operate this business and is unsuitable to do so. The respondent reports various health problems as the reason for some of these failures so it is in their own best interest and the best interest of the public for this company to be removed from operation. Clearly, the stress of trying to handle these problems is too much to bear. The department wants to relieve the respondent of this burden and protect the public from what are obvious safety issues.

The respondent's claim they are in negotiation with a party to buy their business and that they will be able to secure a contract for the sale within thirty days from the date of the hearing. The respondents will be allowed the chance to negotiate a sales contract for the business and to file a completed sale and transfer application with the DOT by February 29, 2012 or the respondent's certificate will be revoked without further hearing. No extensions will be given for filing the sale and transfer application beyond the February 29, 2012 deadline.

The time for fixing these serious problems is long over. This is the only solution that protects the public and is fair to the respondent.

IV. ORDER

Based on the above, the respondent is hereby revoked at the close of business on February 29, 2012. The revocation will be held in suspension if the respondent submits a completed sale and transfer application to DOT by close of business on February 29, 2012. During the time the sale and transfer application is being processed by DOT, the respondent's revocation will be held in abeyance. If the sale and transfer application is denied or the respondent fails to file a completed sale and transfer application by February 29, 2012, the respondent's revocation will become effective immediately.

No extensions will be granted for filing a completed sale and transfer application with DOT.

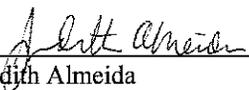
The respondent should keep in mind that any active vehicles that are not included in the sales agreement will be forfeited and any vehicles not active enough to justify a sale will also be forfeited. At this time, it appears that only three of respondent's vehicles are active enough to be transferred but this fact will be confirmed by the Regulatory and Compliance Unit. The respondent will have no further taxicab ownership rights after the sale and transfer has been processed.

Failure of the respondent to comply with this order shall result in revocation without further proceeding.

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

Dated at Newington, Connecticut on this the 20th day of January 2012.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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