

COMMONWEALTH OF KENTUCKY  
TRANSPORTATION CABINET  
DEPARTMENT OF VEHICLE REGULATION

OFC OF GENERAL COUNSEL

2014 AUG 18 P 4: 39

IN THE MATTER OF THE APPLICATION OF:

COOK & REEVES WHEELCHAIR TRANSPORTATION,  
INC.

DOCKET NO. 14-073  
(Jefferson DPV)

**ORDER**

The matter is before the Commissioner, Department of Vehicle Regulation, Kentucky Transportation Cabinet based on *sua sponte* review of the file and hereby finds the following,

IT IS HEREBY ORDERED that the DPV application of Cook & Reeves Wheelchair Transportation, Inc., is REINSTATED. The application shall proceed under the guidelines set forth in the Amended Notice and Order to be entered in this matter.

IT IS FURTHER ORDERED that any person having interest in the subject matter may intervene in accordance with the regulations prescribed. Any intervention concerning the granting, in whole or in part, of the application shall relate solely to whether the applicant is fit, willing and able to provide the service proposed and as set forth in *Bruner v. Zawacki*, 2104 WL 375601 (E.D. KY, 2014). An Intervenor may upon the filing of an appropriate Motion allege that the applicant is *not* fit, willing, and able, and request a hearing, however, the hearing shall pertain to whether the applicant is fit, willing, and able to perform the service. The parties are on notice that the notice, protest, and hearing procedures as applied to the moving industry were held unconstitutional in *Bruner v. Zawacki*. As the same notice, protest, and hearing procedures apply equally to the passenger motor carrier service industry, and the legal

and economic justifications for these procedures as applied to the passenger carrier industry are indistinguishable, those provisions will not be enforced.

So ordered this the 18<sup>th</sup> day of August, 2014, in Frankfort, Kentucky.

  
Rodney Kuhl, Commissioner  
Kentucky Transportation Cabinet  
Department of Vehicle Regulation  
200 Mero Street  
Frankfort, KY 40622

**NOTICE: Pursuant to KRS 13B.140, all final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty days (30) after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.**

**Pursuant to KRS 23A.010(4), "Such review [by the Circuit Court] shall not constitute an appeal but an original action." The Court of Appeals has suggested that an appeal to Circuit Court is commenced upon the filing of the appeal**

**petition and the issuance of summons within the thirty (30) day time period for filing an appeal.**

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and accurate copy of this Order was sent by U.S. Mail, postage prepaid, unless otherwise noted below, to the following:

Cook & Reeves Wheelchair Transportation, Inc.  
4443 Dixie Highway  
Louisville, KY 40216

James D. Liebman, Esq.  
403 West Main St.  
P.O. Box 478  
Frankfort, KY 40602

On this 18<sup>th</sup> day of August, 2014.

A handwritten signature in cursive script that reads "Rebecca W. Goodman". The signature is written in black ink and is positioned above the printed name and title.

REBECCA W. GOODMAN, ESQ.  
Executive Director  
Office of Legal Services  
KY Transportation Cabinet