

Decision No. 22972

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 CITY & HARBOR WAREHOUSE, LTD.,
 a corporation, for an order author-
 izing the issue of its capital stock
 and for a certificate of public con-
 venience and necessity to operate
 the business of a warehouseman.

ORIGINAL

Application No. 16592

Faries & Williamson, by David R. Faries
 and Edward Heizman, for Applicant.
 Howard Robertson, for Los Angeles
 Warehousemen's Association, Protestant.
 Hugh Gordon and A. D. Poe, for Central
 Warehouse & Storage Company, Protestant.
 Henry E. Carter and LeRoy M. Edwards, for
 Wilmington Transfer & Storage Company,
 Protestant.
 Carl Rogers, for Nelson Steamship Company,
 Intervenor.
 C. S. Booth, for Los Angeles Steamship Co.,
 Intervenor.
 J. H. Powell and Hubert C. Ferry, for Outer
 Harbor Dock & Wharf Company, Protestant.
 L. A. Bailey, for California Warehousemen's
 Association, Protestant.

BY THE COMMISSION:

O P I N I O N

CITY & HARBOR WAREHOUSE, LTD., a corporation, has made application to the Railroad Commission for a certificate of public convenience and necessity to operate the business of a warehouseman under sections 2½ and 50½ of the Public Utilities Act, on Mormon Island in the Wilmington district of Los Angeles Harbor, in the City of Los Angeles, a city having a population of more than 150,000. Applicant also

makes application to issue 1,000 shares of stock at \$100.00 per share.

Public hearings thereon were held by Examiner Fankhauser on June 13, and by Examiner Williams at Los Angeles on July 1, 2 and 3, 1930, and said matter was submitted on briefs, which, having been filed, places the application under submission.

Applicant corporation proposes to erect a concrete reinforced steel building on Lot 5 and part of Lot 6, Mormon Island, the site having been leased from the Banning Estate for a period of 17 years. This site is 230 by 410 feet, and the building is composed of three sections, said sections being separated by 12-inch fire walls. At the hearing in July, Elmer C. Cord, one of the incorporators and President of applicant company, testified that a contract had been let for the construction work and that the building would be ready for use early in September. Applicant also intends to engage in private warehousing in the same structure. According to the contract with Easten & Nessen, the building is to be completed by September 4, 1930, although the lease does not require completion before October 23, 1930.

Applicant proposes what it calls a "shipside" warehouse located near the terminal of the American-Hawaiian Steamship Docks (Nos. 176-177 Wilmington water frontage) and intended to receive and discharge cargoes by stevedoring, rather than truck transportation as practiced for long distances. The warehouse being within 400 feet of docks of American-Hawaiian Steamship Company, it is expected that stevedoring service will be adequate. While protestants were quite strenuous in declaring that such is not a true "shipside" warehouse, we are not inclined to regard the definition of importance so long as the utility provides storage needed by the shippers by whatever method may be used to put shipments at rest in its warehouses. Nor is the Commission seriously concerned as to what ancillary transportation

service applicant may establish to other docks on Mormon Island, inside the City of Los Angeles, as such transportation is not under our jurisdiction. The only question to be determined by this Commission is the necessity, for warehousing, as proposed herein.

Harbor statistics in the record were much of the same nature and detail as in similar applications for harbor warehousing but more up to date. Exhibit No. 7 (supplementing Exhibit No. 2) shows that the total tonnage of the harbor for the year ending June 30, 1930, was 26,480,678 and the gross cargo value was \$1,104,892,876. This represented an increase over 1928 of 2,954,344 tons and \$225,891,340 value. The Hawaiian shipments for 1928 were 307,390 outbound, and 67,619 inbound, a total of 375,009 tons, while in 1930 they were 538,941 outbound and 64,193 inbound, a total of 603,134 tons. The increase of 1929 was proportionately about the same, the increase in gross tonnage being 1,209,450 for the fiscal year. While the showing includes a very large volume of lumber and oil not warehoused, there is also an intercoastal and coastwise traffic for 1930 of 17,737,136 tons, in and out, an increase of 18,612 tons over 1929.

It is the contention of protestant that only a very small percentage of this tonnage is capable of warehousing at the harbor because of the distributing methods requiring warehousing in the business district for convenient access; further, that distribution from harbor points is not practical, except for reshipment, by water, to a negligible amount, and that a large proportion is sold ex-dock and the warehousing, if any, left to consignees who, as a rule, prefer to transport commodities, so bought, to their point of use direct. The testimony of witnesses for applicant indicates their desire to warehouse at the harbor and distribute or reship from that point if facilities are made available.

Applicant's witnesses were a group of shippers who, in the main, gave good reason why the company should receive its certificate. Mr. F. B. Cole, testifying for the Los Angeles Chamber of Commerce, presented that body's declaration that additional warehouses are needed at the harbor regardless of any applicant. This finding was based on the Chamber's own departmental surveys. Similar recommendations from the Wilmington Chamber of Commerce, went further and supported applicant herein, though with less substantial background. Other witnesses testifying for applicant were: Bert L. Collins, importer of steel and silk; Maurice Carasso, importer of fibres, vegetable oils, fertilizer, etc. and exporter of canned goods, with a volume of 100 tons monthly but which, with the facilities proposed, could be increased 3000 tons monthly; W. E. Floyd, importer of fibres, seeds and tallow, and F. T. Kyer, representing Malliard & Schmiedel, chemicals, particularly calcium chloride to the volume of 5000 tons a year. The testimony in general was that the establishment of facilities at water would encourage pool shipments with storage pending transit to other points by either water or land; that it would provide facilities making a haul of 20 miles or more to Los Angeles warehouses unnecessary. In general, the warehousing proposed is in line with the finding of the industrial and foreign shipment divisions of the Los Angeles Chamber of Commerce, that additional warehouse facilities are needed, as testified to by Mr. Cole.

The application was protested by Wilmington Transportation Transfer & Storage Company on the ground that it has received, by Decision No. 22353 on its Application No. 16303, dated April 22, 1930, a certificate to erect two warehouses, one in the Wilmington district, of 75,000 square feet, and another on Terminal Island of 25,000 square feet; also, that by Decision No. 22569 on Application No. 16385 Crescent Wharf and Warehouse Company was authorized to construct 40,000 feet additional on Terminal Island; that such

certificate provides adequately for all storage needs in the harbor region. At the final hearing it was of record that these warehouses have not been constructed. It further appears of record that protestant, Wilmington Company, has procured no site for its Terminal Island warehouse and that the site contemplated in the Wilmington district has not been leased, and that protestant is not yet sure of the location it prefers. Nor had work been begun on the warehouse of Crescent Wharf and Warehouse Company, although its fixed site was ready. However, such warehouse would be several miles distant by road from applicant's proposed site.

Mormon Island is an important part of the Wilmington Harbor district, and applicant has located its warehouse site conveniently to serve important steamship lines, such as American-Hawaiian (which alone handled 700,000 tons or more in 1929-30), and its method of receiving and storing, while generally criticized by protestants, does not present impractical nor undesirable features. Although the incorporators of applicant company also propose to engage in other activities, such as financing warehouse receipts, brokerage in commodities and their processing and private warehousing, such activities are outside the scope of this Commission's jurisdiction and should have no weight in determining the need and convenience of the warehousing service proposed.

Protestant, Wilmington Transfer and Storage Company, Los Angeles Warehousemen's Association, and California Warehousemen's Association based their opposition on the alleged abundance of provision for harbor warehousing through certificates granted to Crescent Wharf & Warehouse Company (Decision No. 22569 on Application No. 16385) and to Wilmington Transfer & Storage Company. The former, however, made no protest. It is not located on Mormon Island area, but on Terminal Island seven miles dist-

ant from applicant's site and separated by Wilmington ship channel. While witnesses from Los Angeles warehouses 20 miles distant, including J. F. Puckett, former President of Wilmington Transfer and Storage Company, F. J. McCowan, Manager of Outer Harbor Dock & Warehouse Company, W. E. Fessenden, President of Los Angeles Warehousemen's Association, and Edgar S. Stanley, owner of Star Truck & Warehouse Company, testified that in their opinion the certificates already granted were ample for all prospective needs, this testimony lacked weight from the fact that no certificate has yet been exercised by actual construction or establishment of business. In considering the Mormon Island site, the Crescent Warehouse on Terminal Island and those in the Outer Harbor in the San Pedro district, should be disregarded as, due to separation by water and by distance, none can serve the Mormon Island docks. The important consideration urged by protestants is that the Wilmington Company's proposed 75,000 square feet warehouse proposed to be located at site 7 (Exhibit No. 5), together with its 67,000 square feet on Fries Street (two miles north) and the 4,000 square feet of the Harbor Warehouse, more distant, are adequate for the Wilmington and Mormon Island areas. At the outset we find that although Wilmington Company received its certificate in April, 1930, it had not actually acquired its site No. 7 (Exhibit No. 5) during the hearing of the instant application (nor its Terminal Island site), and it did not have plans ready. It thus appears that when the instant application was heard applicant was the only company fixed as to site and actually constructing warehouse facilities for the public and ready to give service. Practically the same need exists now for such facilities as was presented by Wilmington Company, yet applicant herein was the only one apparently ready, willing and able to provide the facilities needed. In view

of this diligence on the part of the applicant, attesting its bona fide enterprise, we see no reason why the shipping public should not enjoy its facilities rather than suffer because previous grantees have not completed necessary preliminaries. In view of applicant herein now being ready, willing and able to provide the storage apparently needed, we believe the certificate should be granted.

Applicant also asks authority to issue and sell to Elmer C. Cord and John W. Cord "or their nominees" 1,000 shares of its capital stock at \$100.00 per share. Elmer C. Cord testified that about half of the stock would be subscribed and paid for by E. L. Cord, automobile manufacturer, of Auburn, Indiana, and the remainder by the witness and his brother. The stock is to be sold on a no-par basis for \$100.00 a share, netting, without discount, \$100,000.00. Of this amount \$69,780.00 is to be expended for the warehouse (Exhibit No. 1). The remainder is requested for working capital, Mr. Cord testifying that the corporation fixed this amount in a desire to have "ample" funds and that this "ample" working capital was to be used in part in financing warehouse receipts. He also testified that the monthly maintenance of the warehouse business had not been computed, as the full operating organization had not been formed. The testimony does not justify the amount of working capital asked and the reasonable amount to be allowed should not exceed \$15,000. If, for any further purpose, applicant should require more, it may sustain an additional request through a new application. The order will provide for an issue of \$85,000.00 of stock of which not more than \$15,000.00 may be used for working capital, the remainder to be used in defraying the cost of construction and equipment of the warehouse.

O R D E R

CITY & HARBOR WAREHOUSE, LTD., a corporation, having made application for a certificate of public convenience and necessity to establish and maintain a public warehouse on Mormon Island in the City of Los Angeles, public hearings having been held, the matter having been duly submitted upon briefs, which were duly filed, and now being ready for decision,

The RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the construction of a public warehouse and the establishment and maintenance of a public warehouse by applicant herein on the following described site:

Lot five (5) and part of Lot six (6) of Mormon Island Subdivision, as shown on a map of a portion of Tideland Location No. 152, as per Book 9, page 274 of Patents, in the office of the County Recorder of Los Angeles, etc., as set forth more fully in Exhibit No. 7 filed at the hearing herein;

and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be granted to applicant herein, subject to the condition that applicant shall file, within a period of not to exceed twenty (20) days from date hereof, a warehouse tariff, published in accordance with the rules of this Commission, setting forth rates, rules and regulations governing the charges to be assessed.

CITY & HARBOR WAREHOUSE, LTD., a corporation, having also asked permission to issue stock, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of stock herein authorized is reasonably required by ap-

plicant and that the expenditures herein authorized are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that the application, in so far as it involves the issue of stock, should be granted as herein provided;

WHEREFORE,

IT IS HEREBY ORDERED as follows:

1. CITY & HARBOR WAREHOUSE, LTD. may, on or before December 31, 1930, issue and sell eight hundred and fifty (850) shares of no-par stock at not less than one hundred dollars (\$100.00) per share, to produce eighty-five thousand dollars (\$85,000.00) and of which total amount not more than fifteen thousand dollars (\$15,000.00) may be used for working capital, and the remainder for the purposes indicated in the foregoing opinion.

2. City & Harbor Warehouse, Ltd. shall keep a record of the issue, sale and delivery of the stock herein authorized and of the expenditure of the proceeds as will enable it to file reports, as required by the Commission's General Order No. 24, which order, in so far as it is applicable, is made a part of this order.

3. This application, in so far as it involves the issue of 150 shares of stock be, and the same is hereby dismissed without prejudice.

4. It is hereby further ordered that the authority herein granted will become effective twenty (20) days

after the date hereof.

Dated at San Francisco, California, this 17th day
of October, 1930.

Cl. J. Sawyer
Commissioner

Wm. S. Linn

W. S. Linn
Commissioners.