

Decision No. 24143

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ADOLFO TOLOMEI, sometimes known as  
Adolph Tolomei, for permission to sell,  
and HALF MOON BAY DRAYAGE COMPANY, a  
copartnership, for permission to purchase  
an automobile freight line operated between  
the Half Moon Bay District and Colma and  
San Francisco, California, by way of  
Crystal Lakes Road as defined by the  
Railroad Commission of the State of California  
in its decision number 10065.

) Application  
No.17722

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

Adolfo Tolomei, sometimes known as Adolph Tolomei, has petitioned the Railroad Commission for an order approving the sale and transfer by him to a partnership consisting of himself, E. Del Grande and Louis J. Gerboni of operating right for an automotive service for the transportation of property between the Half Moon Bay District and Colma and San Francisco, and the said partnership, which proposes to operate under the name of Half Moon Bay Drayage Company, has petitioned for authority to purchase and acquire said operating rights and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

No consideration is to be paid for the property herein proposed to be transferred. Seller Tolomei proposes to transfer one truck and the operating right herein described to the partnership, the other members of which will transfer certain equipment to the partnership. Each of the three partners will hold a one-third interest in the drayage company.

The operating right herein proposed to be transferred was established by the Commission by its Decision No. <sup>10065 HGM.</sup> 10065, issued on Application No.7440, which granted to Paul Gatto

authority to operate "an automobile truck line as a common carrier of vegetables and other perishable farm products from Half Moon Bay District to Colma and San Francisco via the Crystal Lakes road and San Mateo, but not serving San Mateo as an intermediate point, " with the further provision "that he shall not accept or transport any freight whatsoever from San Francisco or Colma to Pedro Valley or Half Moon Bay, except empty boxes and crates which will be returned to shippers free of charge." Gatto, under authority of Decision No.11417, issued on Application No.6511, transferred the right to Tocchini & Dianda. A. Tolomei, applicant herein, acquired it from Tocchini & Dianda under authority of Decision No.22716, issued on Application No.16691.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

Adolfo Tolomei, E. Del Grande and Louis J. Gerboni, co-partners operating under the name of Half Moon Bay Drayage Company, are hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

- 1- The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2- Applicant A. Tolomei shall immediately unite with applicants Tolomei, Del Grande and Gerboni in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Tolomei on the one hand withdrawing, and applicants Tolomei, Del Grande and Gerboni on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Tolomei shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicants Tolomei, Del Grande and Gerboni shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicant Tolomei, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Tolomei, or time schedules satisfactory to the Railroad Commission.

4- The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5- No vehicle may be operated by applicants Tolomei, Del Grande and Gerboni unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 19th day of October, 1931.

Leon Whitely

W. J. Carr

W. B. Harris

Fred G. Stewart  
COMMISSIONERS.