

Decision No. 20522

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SAN DIEGO MUNICIPAL WAREHOUSING CORPORATION, LTD. for an order authorizing the corporation to sell a certain tide land lease and certain other assets; for an order authorizing change of its capital stock structure from \$500,000. divided into 5,000 shares of the par value of \$100. each, to 5,000 shares without nominal or par value and authorizing the exchange of its issued and outstanding shares of par value stock for new no par value stock; and for an order authorizing the reduction of its stated capital and distribution of reduction surplus to its stockholders.

ORIGINAL

Application No. 21634

Salisbury, Robinson & Himrod, by Stuart M. Salisbury,
for applicant.
C. P. von Herzen, for Lyon Warehouse Company of San Diego
and Bekins Van and Storage Company, interested parties.
H. W. Dill, for the Truck and Warehouse Association of
San Diego and Imperial Counties, protestants.

BY THE COMMISSION:

OPINION

The Commission is asked to enter its order authorizing San Diego Municipal Warehousing Corporation, Ltd. to sell to the City of San Diego that certain tide land lease and the leasehold estate created thereby, to which reference will be made hereafter, together with a warehouse building now located thereon and all equipment, improvements and tangible personal property owned by applicant located therein or thereon; and authorizing applicant to change its stock structure from 5,000 shares of the par value of \$100. each, amounting to the aggregate of \$500,000. to 5,000 shares without nominal or par value and after its capital stock structure shall have been changed, as aforesaid, to issue 1,000 shares of its common capital stock without nominal or par value, in exchange for and upon surrender for cancellation of certificates representing 1000 shares of its issued and outstanding capital stock of the par value of \$100. per share; and after the exchange of its existing par value stock for no par stock, as afore-

said, to reduce the stated value of the capital stock from \$100,000. to \$1,000. and from the surplus thus created to pay and distribute to its stockholders the sum of \$50,000.

San Diego Municipal Warehousing Corporation, Ltd. is engaged at present in operating a warehouse at 1265 Harbor Street, San Diego, under a certificate of public convenience and necessity granted by Decision No. 20486 dated November 16, 1928. The warehouse is located on land leased from the City of San Diego. The lease is dated August 16, 1929 and covers the following properties:-

" Lots 10, 11, 12 and 13, in Block 10; Lots 10, 11, 12 and 13, in Block 11; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, and the alley between Lots 6 and 7, in Block 12; and Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, and the alley between Lots 6 and 7, in Block 13, all in the Municipal Tide Lands Subdivision, Tract No. 1."

Under Section six of the lease the right and privilege is reserved to the Common Council and the people of San Diego by ordinance duly adopted to terminate, change or modify the lease, upon payment to the lessee, or his assignee, of reasonable compensation for all damages occasioned by such termination, change or modification; and there is also reserved to the City the right to remove the buildings, tracks or equipment of the lessee or his assignee, to a new location, if and whenever the City shall have another similar location on its tidelands available, where the adjacent wharf and shipping facilities are equally as good as those at the demised premises, upon condition that the moving shall be done at the expense of the City and all buildings, tracks and equipment shall be placed by the City on the new location, in as nearly as is possible, considering depreciation, the same condition, and in the same relative position both as to wharfage, shipping facilities and otherwise, as existed prior to removal. The City shall be put to no expense, however, in respect to loss of business during removal of plant and appurtenances. "

From Exhibit A filed in this proceeding it appears that the Harbor Department of the City of San Diego has elected to purchase for the sum of \$50,000. the tideland leasehold interest of the San Diego Municipal Warehousing Corporation, Ltd. together with the warehouse equipment, improvements and all tangible personal property contained therein or there-

on, upon condition that title to the same shall vest in the city free and clear of all liens or encumbrances of any character whatsoever.

San Diego Municipal Warehousing Corporation, Ltd. has an authorized stock issue of \$500,000. divided into 5,000 shares of the par value of \$100. each. Under the authority heretofore granted by the Commission the company has issued and now has outstanding \$100,000. of its common capital stock. All of this stock is owned by the Estate of J. C. Allison, deceased. This estate is being probated in the Superior Court of the State of California, in and for the County of San Diego, in a proceeding therein pending entitled "In the Matter of the Estate of J. C. Allison, etc., deceased," No. 23416, in the records of the ~~San Diego Superior~~ said Court. Upon the sale of the aforesaid properties to the City of San Diego, the San Diego Municipal Warehousing Corporation, Ltd. intends to distribute the \$50,000. to its stockholders. To accomplish this end it proposes to amend its articles of incorporation so that they will provide for an authorized stock issue of 5,000 shares without nominal or par value in place of 5,000 shares of stock of the par value of \$100. each. Thereafter it will exchange its present issued and outstanding par value common stock, share for share, for its new stock without nominal or par value, and reduce its stated capital from \$100,000. now represented by 1,000 shares of the par value of \$100. each, to \$1,000. represented by 1,000 shares of stock without nominal or par value. From the surplus thus created it would pay and distribute to its stockholders the \$50,000. received from the sale of properties to the City of San Diego.

It is our opinion that if the stated value of applicant's stock is reduced to \$1,000. such stated value should be represented by not more than 40 shares of its capital stock without nominal or par value.

The corporation has only a nominal amount of indebtedness. After the sale of its properties and the distribution of the proceeds realized from such properties, its assets will consist of about \$8,000. of accounts receivable, and some cash on hand. In paragraph five of

applicant's petition it is recited that after the re-capitalization of its properties and the distribution of the \$50,000. applicant proposes to carry on a limited warehousing business in cooperation with the Harbor Department of the City of San Diego on Pier No. 1, Shed No. 2 in San Diego. No one has raised any objection to the sale of applicant's properties mentioned herein, to the City of San Diego. Parties have, however, evinced an interest in the future conduct of applicant's warehouse business. Because of this interest it has been concluded to hold a further hearing on this phase of its application.

ORDER

A public hearing having been held in the above entitled matter before Examiner Fankhauser and the Commission having considered the evidence submitted at such hearing, and it being of the opinion that an order should be entered at this time in this proceeding authorizing San Diego Municipal Warehousing Corporation, Ltd. to sell to the City of San Diego the properties to which reference has been made, that said company should be authorized to exchange its outstanding stock having a par value, for stock without nominal or par value, and that the issue of stock herein authorized is reasonably required by applicant for the purposes herein stated and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:-

1. San Diego Municipal Warehousing Corporation, Ltd. may, after the date hereof and prior to April 1, 1938, sell to the City of San Diego the leasehold estate created by the lease dated August 16, 1929, referred to in the foregoing opinion, together with the warehouse building now located thereon and all equipment, improvements and tangible personal property owned by applicant, located therein or thereon.

2. San Diego Municipal Warehousing Corporation, Ltd. may, after the date hereof and prior to April 1, 1938, amend its articles of incorporation and by such amendment change its authorized stock structure from 5,000 shares of stock of the par value of \$100. each to 5,000 shares without nominal or par value and after said amendment has become effective, issue 1000 shares of its common capital stock without nominal or par value in exchange for and upon surrender for cancellation certificates representing 1000 shares of its issued and outstanding common capital stock of the par value of \$100. per share.

3. San Diego Municipal Warehousing Corporation, Ltd. may, after the date hereof and prior to April 1, 1938, provided its shares of stock have been exchanged on the basis stated in paragraph two of this order, reduce the stated value of its capital stock from \$100,000. to \$1,000., said \$1,000. of stated value to be represented by not more than 40 shares of applicant's common capital stock without nominal or par value, and may from the surplus thus created pay to its stockholders a dividend of \$50,000.

4. San Diego Municipal Warehousing Corporation, Ltd. shall file within sixty(60) days after the amendment of its articles of incorporation, with the Commission, a certified copy of its amended articles of incorporation and a report showing to whom the stock herein authorized to be issued has been issued and that the shares of stock outstanding have been reduced from 1000 to 40 or less.

DATED at San Francisco, California, this 17th day of January, 1938.

Matthew W. ...
Leon ...
Frank ...

Ray L. Riley
Commissioners.