

ORIGINAL

Decision No. 42640

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
DONALD W. AYRES, doing business as)	
AYRES WAREHOUSE COMPANY, to sell, and)	Application No. 30002
COAST VAN & STORAGE, INC., to purchase)	
the warehouse operative right of the)	
Seller.)	

Appearances

Gordon, Knapp and Hennessy, by John E. Hennessy,
for applicants.
Arlo D. Poe, for Los Angeles Warehousemen's
Association, interested party.

O P I N I O N

By this application Donald W. Ayres seeks authority to sell to Coast Van & Storage, Inc., a California corporation, a right to conduct a public utility warehouse business in the City of Los Angeles.

Public hearing was had before Examiner Bryant at Los Angeles on February 23, 1949, at which time the matter was submitted for decision.

The operative right herein involved is a prescriptive right which applicant Ayres acquired from Cook-McFarland Company by virtue of Decision No. 41598 dated May 18, 1948, in Application No. 28959. The application recites that Ayres has been unable to acquire suitable facilities to engage in the warehouse business in Los Angeles, in conformity with the operative rights granted to him by Decision No. 41598; that there is a public need for such facilities; that Coast Van & Storage, Inc., has certain suitable facilities, and has available for employment experienced warehouse personnel; that an agreement has been made between Ayres and Coast for

the former to sell and the latter to purchase the operative right herein involved, subject to approval of this Commission, for a consideration of \$2,500; that it is in the public interest that the operative right be transferred from Ayres to Coast to the end that the latter may make its properties available for public storage; and that Coast proposes to establish and assess rates and charges of the same volume as those maintained by other public warehousemen in the Los Angeles metropolitan area.

Testimony in support of the application was offered by Donald W. Ayres and by the assistant secretary and manager of Coast Van & Storage, Inc. Ayres described the efforts which he had made to secure satisfactory building space. He said that he had contacted approximately 23 real estate brokers, and had personally examined at least 60 properties.¹ This witness explained that there were many properties available, but of those which he considered well located and otherwise suitable for the purpose he found none at a rental which, in his opinion, would permit compensatory operation at rates competitive with other warehousemen in the area.

The officer of Coast Van & Storage, Inc., described the facilities which his company proposed to devote to public warehousing if authorized to acquire the operative right. There are two buildings and an annex, all located in the vicinity of East Third Street and South San Pedro Street, Los Angeles, comprising a total floor area of approximately 65,000 square feet. The principal

¹ Ayres stated that he examined 10 properties in December, 1947; 17 in January, 3 in February, 3 in March, 2 in April, 15 in June, 6 in July, and 4 in September, 1948; and that other facilities were examined, of which he made no record. As hereinbefore indicated, the decision which authorized Ayres to acquire the right was dated May 18, 1948.

structure, which has a floor area of 50,000 square feet, is owned by Coast Van & Storage, Inc. The other property is held by it under a five-year lease. All of the properties are currently leased by Coast Van & Storage, Inc., to Coast Van Lines, Inc., an affiliated corporation which is engaged in the storage and transportation of used household goods. It was testified that, if the present application is granted, the lease arrangement between the two affiliated Coast companies will be revised to give Coast Van & Storage, Inc., control of half of the floor area of each of the buildings, representing a total of 32,500 square feet. It is this space which would be devoted to public utility warehousing under the present application.

The assistant secretary and manager of Coast Van & Storage, Inc., who holds the same position with Coast Van Lines, Inc., stated, "We have never used Coast Van & Storage, Inc., as an operating company. It is principally a lease company. It has never been an operating company." For that reason, he explained, the company had little cash surplus or operating capital. He testified, however, that any necessary capital would be available through the affiliate, Coast Van Lines, Inc., and from other sources.²

The Los Angeles Warehousemen's Association was represented at the hearing as an interested party. No one opposed the granting of this application.

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According to the balance sheet of Coast Van & Storage, Inc., for December 31, 1948, as submitted with the application, the warehouse building which it owns is recorded at \$51,445, less depreciation. The witness for this company stated that the present value would be several times that amount; and it was shown that an appraisal of \$175,000 was made in 1947.

The record is clear that Donald W. Ayres has not found it feasible to acquire property within which to conduct the public warehouse service permitted under his operative right; and that Coast Van & Storage, Inc., has warehouse properties which will be made available to the public if this application is approved. Upon careful consideration of the facts and circumstances of record, the Commission concludes that the proposed sale and transfer of the public utility warehouse operative right from Donald W. Ayres to Coast Van & Storage, Inc., is consistent with the public interest. The application will be granted.

No physical properties are involved. We make no finding relative to the reasonableness of the price to be paid for the operative right. Coast Van & Storage, Inc., is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business. 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.

Applicants have not sought, and we do not herein make, any determination of the nature or scope of the warehouse operative right herein involved. In granting this application we authorize the sale and transfer of whatever warehouse operative right may be possessed by Donald W. Ayres.³

³ Decision No. 41598, *supra*, recites that Cook-McFarland Company, from which Ayres acquired the right, operated 44,500 square feet of public utility warehouse floor space which was used almost entirely by storers of liquors in cases and barrels.

O R D E R

Donald W. Ayres having made application to the Public Utilities Commission for authority to transfer a certain right to Coast Van & Storage, Inc., which joins in the application, a public hearing having been held thereon, and the matter having been submitted,

IT IS HEREBY ORDERED:

(1) That Donald W. Ayres, after the effective date hereof, and on or before June 30, 1949, may sell and transfer to Coast Van & Storage, Inc., the public utility warehouse operative right herein involved.

(2) That within one hundred twenty (120) days from the effective date hereof, and on not less than ten (10) days' notice to the Commission and to the public, Coast Van & Storage, Inc., shall file rates, rules and regulations substantially the same as those maintained by Cook-McFarland Company when operations under the right herein involved were suspended or discontinued, and in no event naming charges higher than those currently maintained by other warehousemen in Los Angeles.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 22nd day of March, 1949.

R. Z. [Signature]
Justice F. Calver
[Signature]
[Signature]

Commissioners