

ORIGINAL

Decision No. 50229

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
BARRETT GARAGES, INC., a corporation,
for a Certificate of Public Convenience
and Necessity authorizing it to operate
as a passenger stage corporation from
the San Francisco International Airport,
San Mateo County, California, to the
cities of San Francisco, Oakland,
Burlingame, San Mateo, Belmont, San
Carlos, Redwood City, Menlo Park and
Palo Alto, California.

Application No. 35454

In the Matter of the Application of
BARRETT GARAGES, INC., a corporation,
for a Certificate of Public Convenience
and Necessity authorizing it to operate
as a passenger stage corporation from
the cities of San Francisco, Oakland,
Burlingame, San Mateo, Belmont, San
Carlos, Redwood City, Menlo Park and
Palo Alto, California, to the San
Francisco International Airport, San
Mateo County, California.

Application No. 35462

James Farragher, Geo. A. Stockfleth and Reginald L. Vaughan,
for applicant.

McCutchen, Thomas, Matthew, Griffiths and Greene, by
Allan P. Matthew and Roland J. Henning, for Fialer's
Limousines, Inc., protestant.

Douglas Brookman, for Airline Ground Transportation
Association, Inc., protestant.

O P I N I O N

Barrett Garages, Inc., by the above-numbered applications requests a certificate of public convenience and necessity authorizing it to operate a passenger stage corporation for the transportation of passengers and their baggage between San Francisco International Airport, San Mateo County, California, and the cities of San Francisco, Oakland, Burlingame, San Mateo, Belmont, San Carlos

Redwood City, Menlo Park and Palo Alto, California, with no service to intermediate or off-route points. By stipulation, filed herein, Barrett Garages, Inc., restricted the scope of its application to the transportation of passengers having prior or subsequent transportation by air and any person accompanying such passenger. The granting of the application was protested by Fialer's Limousines, Inc., and Airline Ground Transportation Association, Inc.

Public hearings were held at San Francisco before Examiner Silverhart.

On May 18, 1954, the City and County of San Francisco acting through its Public Utilities Commission entered into a contract with Barrett Garages, Inc., concerning ground transportation of passengers arriving at or departing from the San Francisco International Airport. ⁽¹⁾

Such contract provides, among other things, so far as pertinent here, that:

1. Barrett Garages, Inc., shall have the sole and exclusive privilege to conduct a ground transportation service for air-line passengers between the Airport and points outside its limits, provided that such transportation originates on or about the Airport premises.
2. In connection with such service Barrett Garages, Inc., shall have:
 - (a) The use of paved areas on the Airport to which it may be assigned by the San Francisco Public Utilities Commission for parking its vehicles.

(1) The Municipal Airport operated on behalf of the City and County of San Francisco by its Public Utilities Commission.

- (b) The use of designated roads and driveways of the Airport as authorized by such Commission for the conduct, operation and maintenance of such service.
 - (c) The use of space in the Terminal Building ⁽²⁾ for the conduct, operation and maintenance of its offices.
 - (d) The right to install and operate signs on the Airport for the purpose of identifying it and informing the public of the service offered by it.
3. Barrett Garages, Inc., shall pay a fee of sixteen and 25/100th per cent (16.25%) of the gross revenues received through the operation of such service (including the gross revenues derived from the operation of its metered taxicabs and chauffeur-driver limousines) or the sum of \$48,000 per year, whichever is the greater.
4. The San Francisco Public Utilities Commission shall:
- (a) Prohibit any carrier other than Barrett Garages, Inc., from loading or picking up passengers for hire in vehicles used primarily for the transportation of airline passengers within the confines of the Airport, except licensed public inter-urban bus carriers operating on a regular schedule under State authority and loading and unloading at stops other than loading areas

(2) The newly constructed Terminal Building is located approximately one mile distant from the existing airport terminal and approximately 3/4 of a mile from the new Bayshore Freeway.

assigned to Barrott Stages, Inc.

- (b) Shall not license or permit any such inter-urban bus carrier to load or unload on the loading or unloading platforms or ramps of the Terminal Building.
- (c) Shall prohibit any person, firm, or corporation conducting the type of service exclusively reserved to Barrott Garages, Inc., from using space in the Terminal Building, or from installing signs, or having starters, guides, clerks and solicitors in the Airport.

5. The term of the agreement shall commence on the first day of operation of the Terminal Building and shall end ten years thereafter unless service is terminated by the happenings of certain events therein set forth.

In the conduct of the proposed service, applicant plans to utilize 18 airline motor buses, each of 29- to 33-passenger capacity. Applicant proposes to operate schedules so as to coincide with the arrivals and departures of airplanes carrying passengers to and from the Airport. An on-call service also will be rendered. The rates as proposed range from a one-way adult fare of \$1.09 between San Francisco and the San Francisco International Airport to a one-way adult fare of \$2.18 between Palo Alto and the Airport. Children under 5 years of age when accompanied by an adult passenger and not occupying seats to the exclusion of other passengers, will be transported free of charge. Children under 5 years of age occupying seats to the exclusion of other passengers and children 5 years and under 12 years of age when accompanied by an adult passenger, will be charged one-half of the adult fare.

The record discloses that applicant possesses adequate

financial resources and the requisite ability to institute and maintain the proposed service.

The utilities manager of the San Francisco Public Utilities Commission testified that the City and County of San Francisco awarded the contract to Barrett Garages, Inc., as the highest responsible bidder pursuant to competitive bidding in which Fialer's Limousines, Inc., participated. According to the witness the Airport is owned in fee simple by the City and County of San Francisco. He stated that roads therein were not dedicated as public highways and would be used only for Airport business, subject to the complete control of the San Francisco Public Utilities Commission. His testimony further showed that applicant would be permitted the exclusive use of the roads leading to and from the terminal building and of the passenger loading and unloading ramps joined to such building in connection with ground transportation originating at the Airport.

Air-lines representatives employed at the San Francisco Airport were called as witnesses by applicant. Their testimony generally was to the effect that it would not be practicable to utilize one ground transportation company for the transportation of their airline passengers from the Airport and to use another for transportation to the Airport and that a single transportation company operating in both directions was preferable. These witnesses indicated that they were satisfied with the service as heretofore rendered by Fialer's Limousines, Inc., and desired the continuance of a satisfactory service.

Fialer's Limousines, Inc., (in addition to other points) is presently certificated to transport air-line passengers in both directions between the City of Oakland and the San Francisco Municipal Airport in San Mateo County, between San Francisco and

San Francisco Municipal Airport (Mills Field) San Mateo County, and between San Francisco Municipal Airport (Mills Field) on the one hand, and on the other hand Burlingame, San Mateo, Belmont, San Carlos, Redwood City, Menlo Park and Palo Alto.

Fialor's Limousines, Inc., now conducts and has conducted a service to and from the San Francisco Municipal Airport for many years past. In July 1950 the City and County of San Francisco awarded Fialor's Limousines, Inc., a contract, the term of which has now terminated, ⁽³⁾ governing transportation services at and from the Airport. The provisions of such contract with reference to exclusive privileges within the Airport are substantially similar to those contained in the contract presently held by applicant.

The president of Fialor's Limousines, Inc., testified as to the points it serves, its methods of operation, and the equipment and facilities it utilizes in the conduct of its airline passenger transportation service.

The witness stated that service to and from the Airport should be an integrated service in charge of one operator.

Representatives of air lines operating to and from the Airport testified upon behalf of Fialor's Limousines, Inc. Their testimony revealed that while they consider the service furnished by Fialor's satisfactory and intend to continue its use, such service would not be satisfactory if Fialor's was unable to obtain convenient access to the passenger loading and unloading ramps at the Terminal Building.

(3) The contract provides that it shall terminate three years after its date. Any holding over of the three-year period shall be on a month to month basis only. Such month to month arrangement is presently in effect.

Fialer's Limousine, Inc., takes the position that the City and County of San Francisco cannot, by the contract with applicant, properly undertake to exclude Fialer's from utilizing the roads and terminal facilities within the Airport in a manner convenient for its air-line passengers, and that Section 1032⁽⁴⁾ of the Public Utilities Code requires that the Commission deny the applications.

The Commission is not here required to construe the legality of the ground transportation service contract entered into by the City and County of San Francisco and the applicant on May 18, 1954. The Commission for the purpose of this proceeding may deem such contract valid. The circumstances here presented warrant the conclusion and we find that Fialer's Limousines, Inc., will not be able to provide a ground transportation service in connection with the San Francisco International Airport to our satisfaction.

The record clearly demonstrates that a satisfactory ground transportation service is necessary in connection with the San Francisco International Airport. Upon full consideration of the record we find that public convenience and necessity require

(4) Section 1032 reads as follows:

Every applicant for a certificate shall file in the office of the Commission an application therefor in the form required by the Commission. The Commission may, with or without hearing, issue the certificate as prayed for, or refuse to issue it, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public convenience and necessity require. The Commission may, after hearing, issue a certificate to operate in a territory already served by a certificate holder under this part only when the existing passenger stage corporation or corporations serving such territory will not provide such service to the satisfaction of the Commission.

the establishment and operation of the service proposed by applicant.

Applicant 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 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.

O R D E R

Public hearings having been hold and based upon the evidence therein adduced,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Barrett Garages, Inc., a corporation, authorizing the establishment and operation of a service as a passenger stage corporation as that term is defined in Section 226 of the Public Utilities Code, for the transportation of passengers and their baggage between San Francisco International Airport, San Mateo County, on the one hand, and the cities of San Francisco, Oakland, Burlingame, San Mateo, Belmont, San Carlos, Redwood City, Menlo Park and Palo Alto, on the other hand, provided, however, no passengers shall be transported except those who have prior or subsequent transportation by air to or from the San Francisco International Airport and any person accompanying such passenger.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
2. Within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective, tariffs and timetables satisfactory to the Commission.
3. Subject to the authority of this Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following routes:
 - a. Between San Francisco International Airport and San Francisco via U. S. Highways 101 and 101 alternate.
 - b. Between San Francisco International Airport and Oakland via U. S. Highways 101 and 101 alternate to San Francisco thence via and along the most appropriate San Francisco city streets, and San Francisco-Oakland Bay Bridge.
 - c. Between San Francisco International Airport and Burlingame, San Mateo, Belmont, San Carlos, Redwood City, Menlo Park and Palo Alto via U. S. Highways 101 and 101 alternate.

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

Dated at San Francisco, California, this 6th day of July, 1954.

John E. [Signature]
PRESIDENT
Justin S. [Signature]
Kenneth [Signature]
Gene [Signature]

COMMISSIONERS