

Decision No. 53010**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BEVERLY HILLS GARAGE, INC., a corporation,)
 to sell, and Airporttransit, a corporation,) Application No. 37785
 to purchase, operating rights and property)
 of a passenger stage corporation.)

Ivan McWhinney for applicants.
Eugene Harpole for Director of Internal Revenue,
 interested party.
Robert W. Russell and Clyde E. Sewright for the
 Department of Public Utilities and Transportation,
 City of Los Angeles, interested party.

O P I N I O N

Beverly Hills Garage, Inc., operates as a passenger stage corporation between points in Beverly Hills, West Los Angeles, Culver City and Santa Monica, on the one hand, and on the other hand, the Los Angeles International Airport, under authority of this Commission. ⁽¹⁾ Airporttransit, a corporation, also operates for the transportation of passengers and their baggage between certain points in Los Angeles and Hollywood on the one hand, and on the other hand, the Los Angeles International Airport, Lockheed Air Terminal and Grand Central Air Terminal, and also between said airports.

This application filed February 27, 1956, requests permission for the transfer to Airporttransit of the operative rights of Beverly Hills Garage, Inc., authorizing service to the Los Angeles International Airport, and five motor vehicles.

Public hearing was held on April 3, 1956, before Examiner Rowe in Los Angeles, at which time evidence was adduced and the matter duly submitted for decision.

(1) Decision No. 45370 dated February 20, 1951, in Application No. 31664; Decision No. 46583 dated December 21, 1951, in Application No. 32890; Decision No. 47068 dated April 29, 1952 in Application No. 33254; Decision No. 47179 dated May 16, 1952 in Application No. 33254 First Supplemental, and Decision No. 51797 dated August 9, 1955 in Application No. 35428.

Airporttransit now serves the Beverly Hilton Hotel pursuant to authority of the Commission granted by Decision No. 51805, dated August 9, 1955, in Application No. 36699. However, the Commission granted a rehearing on the petition of Beverly Hills Garage, Inc., on October 11, 1955. There has been no decision on this rehearing, and the president of Beverly Hills Garage, Inc. stated that if the present application is granted the petition for rehearing will be withdrawn. The Agreement of Sale also provides for the purchase by Airporttransit of two Flexible Buses and three Crown Buses. The total purchase price of \$12,500 is allocated \$11,500 for the motor vehicles and \$1,000 for the certificates of public convenience and necessity.

Five hundred dollars has been advanced by the purchaser and the balance of \$12,000 is payable upon consummation of the transfer. The seller agreed to transfer the property and operative rights free and clear of liens and encumbrances. The Director of Internal Revenue has filed tax liens against the assets of the seller. The Director does not request that any provision be made in the decision for the protection of this lien as he feels that since the purchaser has notice of the Government's claim nothing will be done which will adversely affect the lien.

Applicant Airporttransit is adequately qualified by experience and financial resources to satisfactorily perform this service. The Beverly Hilton Hotel was duly notified of this application and hearing and entered no appearance. The Commission can assume that the hotel does not wish the continuance of service both by Beverly Hills Garage, Inc., and by Airporttransit. The granting of this application will be considered as effecting an abandonment of the Beverly Hills Garage service to that hotel. The service by Airporttransit appears to be the only service needed and the operative rights and tariffs of the seller so far as they apply to service to and from the Beverly Hilton Hotel will be revoked and canceled

concurrently with the transfer to Airporttransit.

The Commission finds that the proposed transfer is not adverse to the public interest. The action taken herein shall not be construed to be a finding of the value of the property herein authorized to be transferred. Airporttransit is hereby placed on 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 as to the number of rights which may be given.

O R D E R

A public hearing having been held in the above-entitled proceeding, the Commission being fully advised in the premises and being of the opinion that the proposed transfer of operative rights and property is not adverse to the public interest; therefore,

IT IS HEREBY ORDERED:

(1) That Beverly Hills Garage, Inc., a corporation, may sell and transfer, on or before July 1, 1956, to Airporttransit the operative rights and property hereinabove described upon the terms and provisions of the Agreement of Sale filed with this application.

(2) That the operative rights to be transferred so far as they apply to operations between the Los Angeles International Airport and the Beverly Hilton Hotel are hereby revoked, such revocation to be effective upon the transfer of said operative rights and property to Airporttransit.

(3) That on or before July 1, 1956, and after the effective date hereof, applicant Airporttransit shall notify the Commission in writing of the fact of transfer and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may have been executed to effect such transfer.

(4) That in accordance with the Commission's General Order No.79 and concurrently with the transfer authorized by ordering paragraph (1) hereof, on not less than five days' notice to the Commission and the public, applicant Airporttransit shall institute service and unite with applicant Beverly Hills Garage, Inc., in common supplements to the tariffs of seller, said Beverly Hills Garage, Inc., withdrawing and said Airporttransit adopting and establishing such tariffs and all effective supplements thereto and at the same time applicant Airporttransit shall also file in triplicate the adoption of the seller's time schedules or in the alternative file in triplicate and concurrently make effective time schedules satisfactory to the Commission.

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

Dated at San Francisco, California, this 1st day of May, 1956.

John E. Mitchell
President

James J. Caswell

Robert J. [unclear]

[unclear]

Commissioners

-4- Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.