

ORIGINAL

Decision No. 54463

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TANNER MOTOR TOURS, LTD.,)	
for a certificate of public convenience)	
and necessity, authorizing the trans-)	Application No. 38426
portation of persons by motor vehicle.)	

Gordon, Knapp & Gill by Wyman C. Knapp
 and Howard Alphson for applicant.
Sidney J. Machtinger for the District
 Director of Internal Revenue,
 interested party.

O P I N I O N

Tanner Motor Tours, Ltd., presently rendering a sight-seeing service under authority of this Commission, requests a certificate of public convenience and necessity authorizing the transportation of passengers between points, which it is presently authorized to serve.

A public hearing was held before Examiner Daly on November 27, 1956, at Los Angeles. The matter was submitted upon the receipt of briefs since filed and considered.

Authority is sought to transport passengers between Santa Monica, Beverly Hills, Culver City and Westwood Village, on the one hand, and Santa Anita and Hollywood Park race tracks, on the other; and between Beverly Hills and Westwood Village, on the one hand, and the Tournament of Roses parade area, and the Rose Bowl Stadium, on the other hand. If granted said authority would substantially duplicate operative rights which applicant acquired from Beverly Hills Garage, Inc. and/or Edward Billicke. A new certificate is requested because of tax liens, in the amount of

\$29,390.08, filed by the Director of Internal Revenue against Beverly Hills Garage, Inc., prior to the authorized transfer. It is feared that unless a new certificate is granted the government will foreclose and sell the existing operative rights thereby forcing applicant to pay twice for the same rights or in the alternative to lose the consideration already paid.

Applicant contends that the instant proceeding is motivated by public convenience and necessity, it argues that the proposed service is seasonal in nature and therefore must be provided by a carrier such as applicant, which is also engaged in additional and diversified operations. This, applicant claims, is supported by the fact that Beverly Hills Garage, Inc., and its predecessor Swanson Motor Livery both failed for financial reasons. Applicant points out that it negotiated the transfer in good faith, without knowledge of the prior filed tax liens. It is not requested that the existing operative rights be revoked, but only that a new certificate be granted so that the public may be assured of continued service in the event that the government should seize the rights involved.

The government argues that the operative rights are property within the meaning of Section 6321 of the Internal Revenue Code of 1954 and as such may properly be the subject of attachment. It is pointed out by the government that applicant had constructive notice of the liens and therefore cannot claim to be a bona fide purchaser for value. To grant a new certificate it contends would render the existing operative rights worthless and thereby defeat the government claim.

The instant application was filed in an obvious attempt to circumscribe government tax liens. This Commission will not be

a party to such a proceeding nor will it attempt to determine the propriety of the liens in question. Such determination will be left to the proper forum. In the event the liens are enforced, however, it must be borne in mind that any transfer pursuant thereto can only be made upon first having obtained the authority of this Commission in conformity with Section 1031 of the California Public Utilities Code. If, as a result of foreclosure, service is discontinued and the public adversely affected thereby, or in the event a purchaser satisfactory to this Commission cannot be found, careful consideration would be given to an application of the nature herein filed.

After consideration the Commission is of the opinion that the instant application is premature and should be denied without prejudice.

ORDER

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED that Application No. 38426 is hereby denied without prejudice.

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

Dated at Los Angeles, California, this 29th day of JANUARY, 1957.

[Signature]
 President

[Signature]

[Signature]

[Signature]
 Commissioners