

Decision No. 62281

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own
motion into warehouse operative rights
of Bradford G. Baruh, Harold F. Baruh
and Morton G. Baruh, doing business as
EAST BAY STORAGE CO.)

Case No. 6961

Meyer L. Lieberman, for respondents.
Elinore Charles and John R. Laurie, for
the Commission staff.

O P I N I O N

The Commission instituted the present investigation on September 13, 1960. Its purpose is to determine whether or not respondents have acquired a prescriptive right as public utility warehousemen by reason of operations conducted in good faith on September 1, 1959 under tariffs and schedules of respondents lawfully on file with the Commission. Respondents have filed a written response to the order alleging that they were, in fact, operating certain floor space as public utility warehousemen in good faith on said date under tariffs and schedules lawfully on file with the Commission.

A public hearing was held before Examiner John Power at San Francisco on June 5, 1961.

A representative of respondents testified that on September 1, 1959 Baruh Investment Co. was the owner of a building in Emeryville containing between 25,000 and 27,000 square feet of storage space. The investment company had leased this building to Baruh Liquors reserving whatever space would be necessary to accommodate public storers. All parties understood that this would not be less than 3,000 square feet. Respondent Harold F. Baruh actively solicited storage accounts both before and after September 1, 1959. He still

continues to do so.

The Commission finds that respondents were, on September 1, 1959, operating as public utility warehousemen the space at the location set forth in Appendix A attached to the following order. The Commission further finds that such space at such location was operated in good faith under tariffs lawfully on file with the Commission.

O R D E R

Investigation having been instituted on the Commission's own motion, public hearing having been held and the Commission basing its order upon the evidence adduced at such hearing, the response filed by respondents, the tariffs, schedules and annual reports of respondents,

IT IS ORDERED that:

1. By reason of operations conducted in good faith on September 1, 1959 and by respondents' tariff filing, of which official notice is taken, Bradford G. Baruh, Harold F. Baruh and Morton G. Baruh possess a prescriptive right as public utility warehousemen within the meaning of Section 239(b) of the Public Utilities Code, as specifically set forth in Appendix A hereto, which by this reference is made a part hereof.

2. Upon the effective date of this order this proceeding is discontinued.

The Secretary is directed to cause a certified copy of this order to be served upon Bradford G. Baruh, Harold F. Baruh and

Morton G. Baruh.

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

Dated at San Francisco, California, this 18th day of July 1961.

Herbert H. Page
President
W. L. Litcher
S. J. Fox
George H. Hoover
Fredrick B. Holbrook
Commissioners

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Appendix A Bradford G. Baruh, Harold F. Baruh Original Page 1
 and Morton G. Baruh

Bradford G. Baruh, Harold F. Baruh and Morton G. Baruh possess a prescriptive right as public utility warehousemen for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Emeryville	3,000

(The floor space shown above is exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code.)

Issued by California Public Utilities Commission.

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