

**ORIGINAL**

63462

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of DUCOMMON REALTY CO.  
For Authority To Transfer Utility  
Properties and Operative Rights To  
BALBOA PAVILION CO. And Application  
Of BALBOA PAVILION CO. For Authority  
To Issue Stock.

Application No. 44218  
Filed February 23, 1962

O P I N I O N

This is an application for an order of the Commission (1) authorizing Ducommun Realty Co., a corporation, to sell and transfer its common carrier by vessel operative rights and related properties to Balboa Pavilion Co., a corporation, and (2) authorizing Balboa Pavilion Co., a corporation, to issue \$25,000 par value of its capital stock.

The application shows that Ducommun Realty Co., is a California corporation engaged primarily in the making and holding of investments in real estate, securities and other properties; that, in addition, it has acquired equipment and rights permitting the operation of a sightseeing service on the waters of Newport Bay, which rights were acquired pursuant to authorization granted by Decision No. 62726, dated October 24, 1961; and that it now desires to separate its utility operations from its nonutility operations and has caused the organization of Balboa Pavilion Co., as a separate

corporation to take over the utility operative rights and equipment and to continue the operations. The new corporation will acquire the utility properties at the same book values as are reported by the present owner, will adopt and apply the same rate schedules as are now charged and the same rules and regulations now in effect, and will continue to operate the vessels along the present routes and according to the present time schedule.

To finance the acquisition and operation of the properties and business, Balboa Pavilion Co. seeks authorization to issue \$25,000 par value of its common stock for the following purposes:

Two passenger launches (appraised value)	\$ 7,392
Operative rights and permits	508
Additional boats -	
15 - 14-ft. fiberglass outboard motor boats (rebuilt) @ \$300 each	4,500
19 - 14-ft. fiberglass fishing skiffs @ \$400 each	7,600
Working capital	<u>5,000</u>
Total	<u>\$25,000</u>

The application shows that \$20,000 par value of the stock will be issued to Ducommun Realty Co. and \$5,000 to five individuals who are officers or directors of that company.

Under the circumstances set forth in the application, we find and conclude that (1) the proposed transfer will not be adverse to the public interest; (2) the proposed stock issue is for proper purposes; (3) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purposes specified herein; and (4) such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we will enter an order granting the application.

Balboa Pavilion Co. 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.

The action taken herein shall not be construed to be a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary, and that the application should be granted, therefore,

IT IS ORDERED that -

1. Ducommun Realty Co., a corporation, on or after the effective date hereof and on or before June 30, 1962, may sell and transfer, and Balboa Pavilion Co., a corporation, may purchase and acquire, the operative rights and properties referred to in the application.

2. Balboa Pavilion Co., a corporation, in acquiring said operative rights and properties, together with \$5,000 of working cash, may issue not to exceed \$25,000 par value of its capital stock.

3. Within thirty days after the consummation of the transfer herein authorized, Balboa Pavilion Co., a corporation, shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

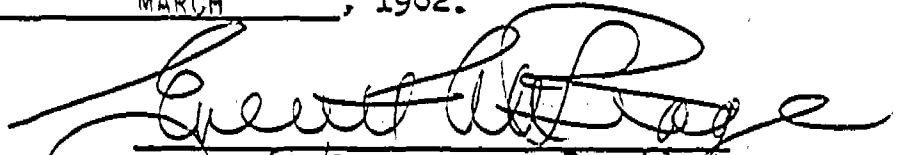


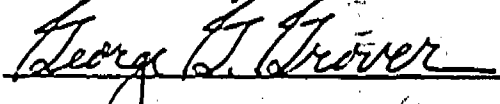
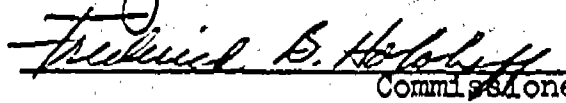
4. Applicants, immediately upon the transfer of said rights and properties and on not less than thirty days' notice to the Commission and to the public, effective concurrently

with the consummation of the transfer, shall supplement or reissue the tariff on file with the Commission insofar as it names rates, rules and regulations covering the common carrier operations now conducted by Ducommun Realty Co., a corporation, to show that said Ducommun Realty Co., a corporation, has withdrawn or canceled and Balboa Pavilion Co., a corporation, has adopted or established as its own, said rates, rules and regulations. The tariff filing made pursuant to this order in all respects shall comply with the Commission's Tariff Circular No. 2.

5. Balboa Pavilion Co., a corporation, shall file a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

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

Dated at San Francisco, California,  
this 27<sup>th</sup> day of MARCH, 1962.

  
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President  
  
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Commissioners