

Decision No. 80660

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of DONALD A. GRABOWSKI,
 dba STARLITE LIMOUSINE SERVICE, for
 a permit to operate as a charter-
 party carrier of passengers.

Application No. 53310
 (Filed March 16, 1972)

Martin J. Barab, Attorney at Law, for applicant.
Malcom B. Dickerman, for Airporttransit; and James H.
Lyons, Attorney at Law, for Airport Service, Inc.,
 protestants.
Robert C. Labbe, for the Commission staff.

O P I N I O N

On March 16, 1972, Donald A. Grabowski, doing business as Starlite Limousine Service, filed the within application to renew his permit to operate as a charter-party carrier of passengers. Thereafter, the application was docketed and set for hearing to determine whether the applicant's permit should be renewed.

Public hearing was held before Examiner O'Leary at Los Angeles on June 29, 1972. The matter was submitted subject to the filing of briefs which were filed on July 17, 1972.

Section 5374 of the Public Utilities Code states: "Before an annual permit or certificate is issued, the commission shall require the applicant to establish reasonable fitness and financial responsibility to initiate and conduct the proposed transportation services."

Section 5375 of the Public Utilities Code provides in part as follows: "... If the commission finds that public convenience and necessity require the proposed transportation service and the applicant possesses satisfactory fitness and financial responsibility

to initiate and conduct the proposed transportation services, and will faithfully comply with the rules and regulations adopted by the commission with respect thereto, it shall issue the permit or certificate to conduct the requested operations, or may issue it for the partial exercise of the privilege sought, and may attach to the permit or certificate such terms and conditions as, in its judgment, are required in the public interest;..."

The issuance of the permit was opposed by Airporttransit and Airport Service, Inc. Both protestants operate passenger stage operations to and from the Los Angeles Airport to points in Los Angeles and Orange County. Both of the protestants hold licenses from the Los Angeles Airport Commission to carry on operations at the airport. It is the position of both protestants that the applicant does not possess the satisfactory fitness required by Sections 5374 and 5375 of the Public Utilities Code and has not proved that he will faithfully comply with the rules and regulations adopted by the Commission.

The director of sales and services of Airporttransit testified that on three occasions he observed applicant at the Howard Johnson Hotel in Encino offering passengers, who were waiting for Airporttransit, transportation to the Los Angeles International Airport. The witness also testified that on two of the three occasions applicant represented himself as Airporttransit and that on one of the three occasions applicant offered to transport the witness to Los Angeles International Airport for \$5.00. The witness further testified that applicant had been arrested approximately twenty times at the airport for violation of the Municipal Code of the City of Los Angeles for picking up passengers without a license at Los Angeles International Airport.

The applicant testified that he never represented himself as any sort of bus to Los Angeles International Airport and has never quoted fares to the airport. Applicant admitted that he had

been arrested approximately twenty times for violation of the Los Angeles Municipal Code for operating at the airport without a license at the Los Angeles International Airport. The applicant further testified that as an outcome of the trials concerning the arrests at the airport, he was convicted and placed on probation for a year and a half and has been instructed by the court not to operate at the airport unless he had a prearranged contract to pick up or discharge passengers. The convictions are currently being appealed.

Applicant's balance sheet as set forth in the application discloses he has total assets of \$57,400 offset by total liabilities of \$13,400.

The staff did not present any evidence or take a position on the matter.

After consideration, the Commission finds that:

1. On three occasions applicant was observed at the Howard Johnson Hotel in Encino offering to transport people to the Los Angeles International Airport.
2. The evidence does not convince us that applicant represented himself to be Airporttransit.
3. The evidence does not convince us that applicant quoted fares on an individual basis.
4. Applicant has been arrested and convicted of violations of the Los Angeles Municipal Code for operating at the airport without a license.
5. Applicant's convictions of the Los Angeles Municipal Code are presently being appealed.
6. The fact that applicant has been convicted of violations of the Los Angeles Municipal Code, as set forth in Finding 4, does not preclude applicant from showing that he possesses reasonable fitness to initiate and conduct the proposed transportation services.
7. Public convenience and necessity require that applicant's permit be renewed.
8. Applicant possesses reasonable fitness and financial responsibility to conduct the proposed transportation services.

9. The evidence does not convince us that applicant has failed to comply with the rules and regulations adopted by the Commission. ✓

Based on the above findings, the Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that:

1. A permit is granted to Donald A. Grabowski, doing business as Starlite Limousine Service, authorizing him to operate as a charter-party carrier of passengers, as defined in Section 5384(b) of the Public Utilities Code.

2. In providing service pursuant to the permit herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

Applicant will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-A and insurance requirements of the Commission's General Order No. 115-A.

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

Dated at San Francisco, California, this 31st day of OCTOBER, 1972.

Yves L. Stenger
President

William J. Givens

John A. [Signature]

Commissioners

I dissent
John A. [Signature], Commissioner

I abstain

[Signature]
Commissioner