

Decision No. 85962

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BOMAR'S CHARTER SERVICE, a sole proprietorship of JAMES R. NYHAN and MARJORIE R. NYHAN, husband and wife, for certificate of public convenience and necessity to operate a passenger stage between Redwood City, County of San Mateo, and the City and County of San Francisco, including points intermediate thereto.

Application No. 54241

In the Matter of the Application of Manfred L. Lazarus (Purchaser) and James R. Nyhan and Marjorie R. Nyhan (Sellers) for authorization to transfer Certificate of Passenger Stage Service.

Application No. 56263
(Filed February 6, 1976;
amended March 15, 1976)

O P I N I O N

Decision No. 82011 dated October 13, 1973 in Application No. 54241 granted James R. Nyhan and Marjorie R. Nyhan, doing business as Bomar's Charter Service, a certificate of public convenience and necessity to operate as a passenger stage corporation between various hotels located along the peninsula south of San Francisco, on the one hand, and Union Square in San Francisco, on the other hand. The certificate includes restrictions prohibiting service to or from the San Francisco International Airport, any transportation service other than passengers and personal baggage accompanying them, and the operation of vehicles with a carrying capacity of more than 14

passengers. The certificate was revoked by Decision No. 85228 dated December 8, 1975 for failure to maintain on file with the Commission evidence showing adequate protection against liability imposed by law for payment of damages for personal injury or property damage as required by General Order No. 101-C. This decision was mailed to, among others, Max Kessler and provided for an effective date 20 days after the date it was issued, "unless before such effective date there shall have been filed with the Commission a written response to this order requesting public hearing in which event the effective date of this order shall be stayed until further order of the Commission". A written response was filed by Max Kessler on December 19, 1975 which stayed the effective date of Decision No. 85228.

By Application No. 56263, the Nyhans request authority to transfer and sell and Max Kessler and Manfred L. Lazarus request authority to purchase the above-described passenger stage certificate. The amendment to the application stated that Max Kessler no longer has an interest in the transfer and that Manfred L. Lazarus is the sole proposed purchaser. The consideration to be paid by the purchaser is \$1,000 with \$600 to be paid upon authorization of the transfer by the Commission and the balance payable 60 days thereafter. No equipment would be included in the sale.

Purchaser has operated Union Square Limousine Ltd. for a substantial period of time and has had considerable experience in the transportation of passengers by motor vehicle. As of April 1, 1976, his business had assets of \$39,935, liabilities of \$600, and a net worth of \$39,335. He proposes to assess the same fares as those shown in seller's tariff. There are no other passenger stage corporations that provide a substantially identical service to that involved herein.

We are of the opinion that the order in Decision No. 85228 should be vacated and that the transfer should be authorized.

Purchaser has informed the Commission that because of the coming summer tourist season, he is anxious to commence the proposed service as soon as possible. In the circumstances, the order will be made effective on the date of signing.

Findings

1. The revocation of the certificate in issue should be vacated.
2. Buyer has the ability, including financial ability, to conduct operations under the certificate sought to be transferred.
3. The transfer of the certificate in issue would not be adverse to the public interest.
4. A public hearing is not necessary.

Conclusions

1. The order in Decision No. 85228 revoking the certificate in issue should be vacated.
2. Application No. 56263 should be granted as provided in the order which follows.

Manfred L. Lazarus is 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, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled 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

IT IS ORDERED that:

1. The temporarily stayed order in Decision No. 85228 in Application No. 54241 revoking the certificate of public convenience and necessity to operate as a passenger stage corporation granted to James R. Nyhan and Marjorie R. Nyhan, doing business as Bomar's Charter Service, by Decision No. 82011 is vacated.

2. On or before August 31, 1976, James R. Nyhan and Marjorie R. Nyhan, doing business as Bomar's Charter Service, may sell and transfer the operative rights referred to in Application No. 56263 and Decisions Nos. 82011 and 85228 in Application No. 54241 to Manfred L. Lazarus.

3. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

4. Purchaser shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that he has adopted or established, as his own, the rates and rules. The tariff and timetable filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the transfer. The tariff and timetable filings made pursuant to this order shall comply

in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79-Series and 98-Series. Failure to comply with the provisions of General Orders Nos. 79-Series and 98-Series may result in a cancellation of the operating authority granted by this decision.

5. On or before the end of the third month after the transfer, the purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

6. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 4, a certificate of public convenience and necessity is granted to Manfred L. Lazarus, authorizing him to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.

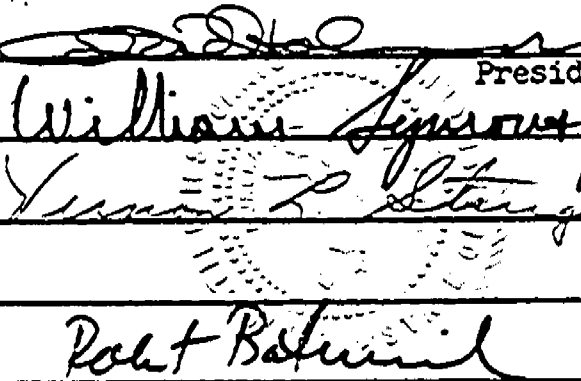
7. The certificate of public convenience and necessity granted by Decision No. 82011 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 4.

8. Purchaser shall comply with the safety rules administered by the California Highway Patrol, the rules and regulations of the Commission's General Order No. 98-Series, and the insurance requirements of the Commission's General Order No. 101-Series.

9. Purchaser shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe. ✓

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15th
day of JUNE, 1976.


William Seymour J. President
Leonard Ross
Robert B. Brown Commissioners

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.

VG

Appendix A

MANFRED L. LAZARUS

Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

Showing passenger stage operative rights, restrictions, limitations, exceptions, and privileges applicable thereto.

All changes and amendments as authorized by the Public Utilities Commission of the State of California will be made as revised pages or added original pages.

Issued under authority of Decision No. 85962
dated JUN 15 1976 of the Public Utilities Commission
of the State of California, in Application No. 56263.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Manfred L. Lazarus, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage between various hotels located on the San Francisco Peninsula, on the one hand, and Union Square in San Francisco, on the other hand, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations.
- (b) When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- (c) Applicant shall not serve the San Francisco International Airport.
- (d) Service shall be provided only between Union Square in San Francisco and the premises of the hotels listed in the application.
- (e) Applicant shall not operate vehicles with a carrying capacity of more than fourteen passengers in providing the authorized service.
- (f) Other than the transportation of personal baggage accompanying a passenger, no additional transportation service, including the transportation of express matter, shall be performed.

Issued by California Public Utilities Commission.

Decision No. 85962, Application No. 56263.

SECTION 2. ROUTE DESCRIPTIONS.

ROUTE 1. Commencing at Rodeway Inn, 380 S. Airport Blvd., South San Francisco; thence via South Airport Blvd. to International Inn, 326 S. Airport Blvd. in South San Francisco; thence via South Airport Blvd. to Royal Inn, 275 South Airport Blvd., South San Francisco; thence via South Airport Blvd. to Holiday Inn, 245 South Airport Blvd., South San Francisco; thence via South Airport Blvd. to Imperial Hotel, 222 South Airport Blvd., South San Francisco; thence via Highway 101, Highway 280, Sixth Street, Taylor Street, and Post Street to Union Square in San Francisco.

Return via Post Street-Montgomery Street-New Montgomery Street-Howard Street-4th Street-Brannan Street-6th Street, Highway 101 to Imperial Hotel, Holiday Inn, Royal Inn, International Inn, and Rodeway Inn.

ROUTE 2. Commencing at Ramada Inn, 1250 Bayshore Blvd., Burlingame; thence via Bayshore Blvd. to Hyatt Hotel, 1333 Bayshore Blvd., Burlingame; thence via Bayshore Blvd. to Airport Marina, 1380 Bayshore Blvd., Burlingame; thence via Bayshore Blvd. to Vagabond Motor Hotel, 1640 Bayshore Blvd., Burlingame; thence via Millbrae Ave. and Bayshore Blvd. to Airport Plaza Hotel, 101 Bayshore Highway, Millbrae; thence via Millbrae Ave. and Bayshore Blvd. to Hilton Inn, at the San Francisco International Airport; thence via Highway 101, Highway 280, Sixth Street, Taylor Street, and Post Street to Union Square in San Francisco.

Return via Post Street-Montgomery Street-New Montgomery Street-Howard Street-4th Street-Brannan Street-6th Street, Highway 101 to Hilton Inn, Airport Plaza Hotel, Vagabond Hotel, Airport Marina, Hyatt Hotel, and Ramada Inn.

ROUTE 3. Commencing at Howard Johnson Motor Hotel, Veterans Blvd., and Whipple Ave., Redwood City; thence via Highway 101 and Marine World Parkway to Holiday Inn, 1101 Shoreway Rd., Belmont; thence via Marine World Parkway, Ralston and El Camino to Villa Hotel, 4000 S. El Camino Real, San Mateo; thence via El Camino and E. Hillsdale Blvd. to Hillsdale Inn, E. Hillsdale Blvd. and South Bayshore Blvd., San Mateo; thence via Hillsdale Blvd., Highway 101, Highway 92, Delaware Ave., and Concar Dr. to the Royal Coach Motor Hotel, 1770 S. Bayshore Blvd., San Mateo; thence via Concar Drive, Delaware Ave., Highway 92, Highway 101, Highway 280, 6th Street, Taylor Street, and Post Street to Union Square in San Francisco.

Return via Post Street-Montgomery Street-New Montgomery Street-Howard Street-4th Street-Brannan Street-6th Street-Highway 101 to Royal Coach Motor Hotel, Hillsdale Inn, Villa Hotel, Holiday Inn, and Howard Johnson Motor Hotel.

Issued by California Public Utilities Commission.

Decision No. 85962, Application No. 56263.