

Decision No. 89419 SEP 19 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HAMED L. MOHAMED, doing business as JOHN HENRY LIMOUSINE SERVICE, for Certificate of Public Convenience and Necessity to operate as a passenger stage corporation for transportation of passengers between Santa Cruz, on the one hand, and San Jose Airport, Woodside, San Francisco Airport, San Bruno, Oakland, San Francisco, and Sausalito, on the other hand on an on-call service.

Application No. 57301
(Filed May 12, 1977)

In the Matter of the Application of RALPH GARBINI, doing business as SANTA CRUZ LIMOUSINE SERVICE, for a certificate of public convenience and necessity to operate as a passenger stage corporation to transport passengers and their baggage between points in the County of Santa Cruz and San Francisco International Airport and San Jose Municipal Airport.

Application No. 57354
(Filed May 27, 1977;
amended July 18, 1977)

In the matter of the application of Joyce R. Melrose, Richard K. Melrose, and Kevin R. Melrose, doing business as THE TRANSPORTER for a Certificate of Public Convenience and Necessity to operate as a passenger stage service for for-hire carriage of the general public in transit originating in Santa Cruz, Monterey, San Mateo and Santa Clara Counties, and the Airport District of Alameda County, with San Francisco and Oakland International Airports as the northernmost termini and Monterey Municipal Airport as the southernmost termini.

Application No. 57394
(Filed June 22, 1977)

Hamed L. Mohamed, for himself in Application No. 57301; Ralph Garbini, for himself in Application No. 57354; and Joyce R. Melrose, for herself and other applicants in Application No. 57394; applicants.
Ernest Held, for Peerless Stages, Inc.; Brian K. Willson, for Airport Limousine Service; Robert P. Bryn, for Greyhound Lines, Inc.; and Randall M. Faccinto, Attorney at Law, for SFO Airporter, Inc.; protestants.
James B. Brasil, Deputy City Attorney, City and County of San Francisco, for San Francisco Airport Commission, interested party.

O P I N I O N

All of these three applications concern, among other proposed routes, transportation for passengers and their baggage between points in Santa Cruz County and San Francisco Bay Area airports. They were therefore consolidated for hearing and heard before Administrative Law Judge Meaney in San Francisco on September 12, 1977 and in Capitola on September 13, 1977.

Application No. 57301

Hamed L. Mohamed, doing business as John Henry Limousine Service (Mohamed), requests a certificate to transport passengers between points in Santa Cruz County on the one hand and "San Jose Airport, Woodside, San Francisco Airport, San Bruno, Oakland, San Francisco and Sausalito on an on-call service."

Mohamed is affiliated with the Star Cab Company and presently owns one cab. The application indicates a San Francisco address. For the proposed operation he will use a 1973 Cadillac which he owns, and his testimony indicates his intention of buying another car. He would drive one car himself and hire another driver. He would also establish a 24-hour telephone for the service.

Mohamed's testimony on his proposed operation was not entirely clear, but it is his apparent intention to carry passengers

from any point in Santa Cruz County, on the one hand, to the other points listed, on the other. Apparently he is not requesting to carry passengers between the points in the San Francisco Bay Area counties.

Mohamed speaks Arabic and Spanish and says that his service would be able to deal with nationalities speaking such languages.

His assets are listed as a \$5,000 auto plus a cash total of \$3,000. Liabilities are listed as \$3,000 payments due on the auto. An estimated income statement originally showed a net annual income of \$17,685 but there was an error in the wage calculation and the correct estimate for net income is \$8,775. Mohamed apparently would continue his taxi operation and therefore would have another source of income.

Fares proposed vary from \$30 to \$70 depending on distance.

Application No. 57354

Ralph Garbini, doing business as Santa Cruz Limousine Service (Garbini), requests a certificate for passenger stage service as follows (as indicated in the amendment to the application filed July 18, 1977):

"Applicant will conduct service as a passenger stage corporation, in the transportation of passengers and their baggage between points in the County of Santa Cruz, on the one hand, and the San Francisco International Airport and the San Jose Municipal Airport on the other; subject, however, to the authority of this Commission to change or modify said authority at any time and subject to the following provisions:

- (a) Only passengers destined to or originating at points in Santa Cruz County shall be transported by applicant.
- (b) Service will be provided daily, including holidays, and shall operate on an on-call and regularly scheduled basis.
- (c) Service will be performed:

- (1) To the named airports from any point in the County of Santa Cruz, as required by the passenger.
- (2) From the described airports to any points within the County of Santa Cruz, as requested by the passenger. Passenger is to telephone carrier and specify name, point of origin and desired time of arrival at airport.
- (d) Carrier will notify passengers of any delay of more than 15 minutes from assigned pickup time.
- (e) Applicant shall not transport passengers originating at San Jose Municipal Airport and destined to the San Francisco International Airport and vice versa."

Garbini's service proposal is detailed in Exhibit 2. It shows that daily scheduled service between the Santa Cruz area and the airports, as well as on-call service, is proposed. The testimony of Garbini indicated one morning and one afternoon run, but the particular times and pickup points had not been determined. The route is from Santa Cruz over Highway 17 to the San Jose Municipal Airport via Highway 280, and to San Francisco International Airport via Highway 101.

Garbini has operated Santa Cruz Limousine Service for 16 years and presently holds from us a permit to operate as a charter party carrier (No. TCP-536-P). He employs two drivers and certain other personnel for reservations and bookkeeping. When he testified he indicated that he owns two nine-passenger station wagons insured for charter party service plus two Cadillac sedans and another station wagon "on standby" which could be insured for passenger carriage if business warrants.

A market study which is part of Exhibit 2 (prepared by Mr. Terry Bourne, a witness for Garbini) shows that of an average of 86 passengers using Garbini's charter service each month, an average of 77 were traveling to or from the San Francisco or San Jose airports. Motels and certain firms in the area were contacted and demonstrated an interest in the service. The marketing study developed certain detail (see Exhibit 2) which indicated a potential market of 2,432 passengers per year (for both on-call and scheduled service). Garbini would also continue charter party service.

Exhibit 2 also includes a pro forma profit and loss statement showing an estimated net profit for the proposed passenger stage operation alone of \$7,246. This estimate is based on the following proposed fare structures: for scheduled service, \$15.00 to or from San Jose Municipal Airport and \$22.00 to San Francisco International Airport, and for on-call service, \$18.00 to or from San Jose Municipal Airport and \$27.00 to or from San Francisco International Airport.

A financial statement, also part of Exhibit 2, shows Garbini's net worth as \$79,579.95.

Eight members of the public testified in support of this application. Included was an employee of the Lipton company who stated that the service would assist serving visitors to their corporate offices, two persons from the University of California Santa Cruz who called attention to the need for transportation between the airports and the campus, and the manager of the Santa Cruz Holiday Inn.

Application No. 57394

Joyce R. Melrose, Richard K. Melrose, and Kevin R. Melrose, doing business as The Transporter (Melrose), request to provide passenger stage service from points in Santa Cruz County to Monterey Municipal Airport, San Jose Municipal Airport, Oakland International Airport, and San Francisco International Airport.

The extent of authority requested is difficult to analyze with preciseness because of discrepancies between the application and the testimony. The application requests northbound authority only and states:

"Service provided to passengers within the counties of Santa Clara and San Mateo shall be limited to only such service as is referred and requested by existing passenger stage carriers or by passengers who, in the furtherance of public convenience and necessity, are unable to have their reservations accepted and serviced by such existing carriers due to passenger load or timed travel factors.

"The limitation stated and described above shall not apply or affect the applicant's performance of service to contractual carriage for commercial or corporate accounts."

While the application contains no such restriction on its face, Robert Morton, who assisted Melrose in preparing the application, stated that Melrose is not requesting authority to transport passengers from one airport to another. Morton stated (transcript p. 133) that the second quoted paragraph, above, may be stricken from the application and regarded as part of charter party rather than passenger stage business.

Mr. Morton testified that the application would allow pickup and delivery to and from any intermediate point, but if the point were outside Santa Cruz County, the passenger would only be accepted if referral were made to Melrose by an existing carrier who could not serve them. Morton stated that if an individual called Melrose for service, verification that other service was unavailable would be necessary.

(Whether this means a telephone call to another carrier was not made clear. In any event, for example, if a potential passenger called from a residence in Santa Clara County, that would seem to be an intermediate point under Melrose's request. If contacting

"another carrier" means contacting a carrier running a regular route, then of course a person living anywhere off the route, anywhere in the county, would be eligible for service.)

The cross-examination of Mr. Morton establishes the virtually unlimited scope of "intermediate" service (transcript pp. 55-58) except that, according to Morton's interpretation of the application, passengers would not be carried from or to airports except from Santa Cruz and Monterey Counties. Morton took the stand again on the second day of hearing, but his testimony concerning intermediate points was not clarifying (transcript pp. 135-136).

Joyce Melrose testified on her own behalf. The Melrose's primary business is a travel agency, and they conduct a charter party service in connection with the travel business. She testified that they have operated their charter party business for three months, using a 1970 Cadillac limousine and a 1975 seven-passenger Chevy van. The other applicants, her two sons, are the drivers.

Regarding the "intermediate points" problem, Mrs. Melrose's testimony (transcript pp. 115-119) attempts to clarify the situation. Apparently her final position is that passengers are to be accepted only if they are going to or from an airport (or the AMTRAK station in San Jose, see transcript p. 119), and not from one intermediate point to another.

The Melroses did not conduct a specific study of the need for the service. A financial statement was provided as Exhibit C to the application. It shows total assets of \$9,600 and no liabilities. At the hearing she said the "no liabilities" status was unchanged.

Fare structure, indicated in an exhibit to the application, shows one-person fares from \$35 to \$48 depending on distance, and fares for two or more persons from \$18 per person to \$29 per person.

Protestants and Interested Parties

SFO Airporter, Inc., which holds authority to transport passengers to and from certain San Francisco Peninsula points and

San Francisco International Airport and San Jose Municipal Airport, protested the Melrose application insofar as it requests authority for intermediate points in San Mateo or Santa Clara County.

Peerless Stages, Inc., which has a certificated route from Palo Alto to San Jose, connecting with its Oakland-Santa Cruz route, made a similar protest.

Greyhound Lines, Inc. (Greyhound) entered a protest to the Melrose application but Greyhound's representative stated (transcript pp. 197-193) that it did not object to limousine-type service (i.e., a seven-passenger vehicle). The extent of Greyhound's protest, if any, to service proposed by Melrose to intermediate points was never entirely clarified.

James B. Brasil, a Deputy City Attorney for San Francisco, appeared on behalf of the San Francisco Airport Commission. He cited congestion at the airport and said that the San Francisco Airport Commission disfavored certificating any more carriers to serve the airport. He said that if any further certificates were issued, carriers would have to discharge passengers at the upper level like a private car, or else do so "curbside" at the lower level. No soliciting of passengers is permitted, nor is "cruising" for passengers. ✓

In response to this statement, Mr. Garbini resumed the stand and stated he had no difficulty, when operating charter service, in discharging passengers without a special stall being provided. He said he only picked up passengers who called his service in advance and did not solicit at the airport.

Discussion

The Mohamed application (Application No. 57301) fails to present even a minimum prima facie case for a certificate and should be denied. It amounts to a request for a certificate for one person owning one car to offer per-passenger area-wide taxi service. Additionally, financial reserves are inadequate and it is uncertain whether Mohamed can meet our insurance requirements.

The Melrose application (Application No. 57394) should also be denied. While the testimony of Mrs. Melrose attempts to cure the problem of how intermediate points will be handled, a review of the whole record shows that the issue remains confusing. In order to grant a certificate for this or a similar operation, we need a more specifically drawn application and more precise testimony on the nature of the authority sought.

Additionally, we believe it inadvisable to commence issuing passenger stage certificates for proposed operations intended to serve as backup or excess for passengers who cannot be served by other carriers. We believe that enforcement of the requirement that a passenger be carried on a passenger stage basis only if another carrier calls and says that it is unable to handle the request for transportation would be difficult if not impossible.

The Garbini application (Application No. 57354) should be granted. Garbini has shown the necessary financial reserves and ability to meet insurance requirements. Equipment, personnel, and experience are adequate.

Additionally, Garbini completed a proper market survey which appears to be a reasonable analysis.

The one problem with the Garbini application is the proposed scheduled operation, which was not developed with sufficient definiteness. Specific departure times and points were not established. While we would favor an operation which would include at least a minimum schedule over a strictly on-call basis, we do not believe that we should construct a schedule for Garbini. We will therefore certify his proposed operation on an on-call basis to meet the demonstrated public demand for the service. If Garbini wishes a scheduled operation as well, he may petition to modify this decision. Garbini is admonished not to simply commence scheduled runs without first filing such a petition for modification.

Findings

1. Applicant in Application No. 57301 (Mohamed) has failed to present a minimum prima facie showing in his own behalf. Mohamed's financial reserves are inadequate, and the type of transportation proposed is not the proper subject of a certificate of public convenience and necessity.

2. Applicant in Application No. 57394 (Melrose) remains vague and ambiguous as to proposed service to intermediate points.

3. It is not appropriate to create, via the issuance of certificates of public convenience and necessity, a class of carrier, as proposed by Melrose, which is authorized to carry excess business referred to it by other regularly certified common carriers. Such service is more properly performed by charter party carriers.

4. The market study performed for applicant Garbini (Application No. 57354) plus the public witness testimony, establishes a public need for the type of certificated passenger stage operation which Garbini proposes.

5. Garbini has demonstrated that his experience, financial reserves, equipment, personnel, and ability to meet insurance requirements are adequate for the proposed operation.

6. Garbini proposes both scheduled and on-call service, but the record contains inadequate information to establish a schedule. We should therefore, at this time, award a certificate for Garbini's proposed on-call operation only. Garbini may petition to modify this decision when he is ready to offer enough specific information regarding routes and schedules for us to determine the merits of a proposed schedule.

7. Because this proceeding has been under submission for some time, and because need for the service proposed in Application No. 57354 has been well demonstrated, we will make this order effective the date hereof.

8. We find with reasonable certainty that the project involved in Application No. 57354 will not have a significant effect on the environment.

Conclusions

1. Application No. 57301 and Application No. 57394 should be denied.
2. Application No. 57354 should be granted to the extent set forth herein and otherwise denied.

O R D E R

IT IS ORDERED that:

1. Ralph Garbini, an individual doing business as Santa Cruz Limousine Service, is granted a certificate of public convenience and necessity, 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.

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

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if he accepts the certificate he will be required, among other things, to comply with the safety rules administered by the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-Series and the insurance requirements of the Commission's General Order No. 101-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the authorized service.

- (d) The tariff and timetable filings made pursuant to this order shall comply 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.
- (e) Applicant 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.

3. Application No. 57301 and Application No. 57394 are denied, and proceedings in those applications are terminated.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 19th

day of SEPTEMBER, 1978.

President
William J. ...

Robert L. ...

Robert P. ...

Clare J. ...
 Commissioners

Commissioner Robert Batanovich, being necessarily absent, did not participate in the disposition of this proceeding.

Ralph Garbini
dba
SANTA CRUZ LIMOUSINE SERVICE

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
TO OPERATE
AS A PASSENGER STAGE CORPORATION
PSC-1051

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. 89419,
dated SEP 19 1978, of the Public Utilities
Commission of the State of California, in Application No. 57354.

dba

SANTA CRUZ LIMOUSINE SERVICE

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

Ralph Garbini, 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 points in the County of Santa Cruz, on the one hand, and the San Francisco International Airport and San Jose Municipal Airport, on the other hand, over the most appropriate routes subject to the following provisions:

- (a) No passengers shall be transported except those having point of origin or destination at two of the following places:
 - 1. San Francisco International Airport.
 - 2. San Jose Municipal Airport.
 - 3. County of Santa Cruz.
- (b) When service is rendered it shall be on an "on-call" basis. Tariffs and timetables shall show the conditions under which such "on-call" service shall be operated.
- (c) No passengers shall be transported whose entire trips are between the San Francisco International Airport and San Jose Municipal Airport.