

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,076

IN THE MATTER OF:

Served July 18, 2013

Application of DIANE RENA PRINCE)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2013-034

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

I. STATUTORY STANDARD

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If the applicant does not make the required showing, the application must be denied under Section 7(b).

II. THE RECORD

This is the second application filed by this applicant. The first was dismissed for applicant's failure to furnish supplemental address information necessary for a full and fair examination of the application.¹

The first application was filed November 7, 2012, and listed 43 Randolph Road, #215, Silver Spring, MD 20904 as applicant's "Street Address", but that address did not match the address on applicant's Attachment A, applicant's driver's license, which indicated that applicant's street address was 3407 Hampton Hollow Drive, Apt. 2, Silver Spring, MD 20904. Accordingly, applicant was directed to produce a copy of an office lease or other document showing applicant's right to maintain an office at the Randolph Road address as of November 13, 2012. Applicant responded on November 21, 2012, by submitting a change of address form listing the Hampton Hollow address as applicant's "Street Address of Principal Place of Business". Applicant also filed a statement explaining that the Randolph Road address was applicant's mailing address.

¹ *In re Diane Rena Prince*, No. AP-12-259, Order No. 13,647 (Dec. 27, 2012).

The Commission then directed applicant to produce a copy of a current utility bill or similar evidence showing applicant's current occupation of the Hampton Hollow address as of November 26, 2012. Applicant responded by submitting a copy of a cell phone bill on November 29, 2012. Unlike utility service, however, cell phone service is not tied to any specific physical location. And by this time, applicant had admitted that the street address she initially provided in the first application was just a mailing address. Under the circumstances, a cell phone bill was not acceptable as proof of occupation of the Hampton Hollow address, and the application was dismissed on December 27, 2012.²

Applicant thereafter filed the current application on February 7, 2013, with the Hampton Hollow address listed as applicant's "Street Address". The application was accepted by letter dated February 13, 2013, and applicant was directed to submit a copy of a lease or utility bill evidencing applicant's right to maintain an office at the Hampton Hollow address. Applicant responded on February 28, 2013, by submitting a change of address form that identified 5901 Montrose Road, Apt. C-102, North Bethesda, MD 20852 as applicant's current "Street Address of Principal Place of Business". The change of address form was accompanied by a driver's license correction showing the Montrose Road address and a partial, one-year residential lease for the Montrose Road address commencing March 20, 2012.

By letter dated March 28, 2013, and addressed to the Montrose Road address, the Commission noted that it appeared from the commencement date of the Montrose Road lease that applicant had not occupied the Hampton Hollow address after March 20, 2012 and that, therefore, applicant did not occupy the Hampton Road residence when she filed the first application in November 2012 as previously claimed. The March 28 letter accordingly directed applicant to explain why this application should be approved when it appeared she had misled the Commission. While the Commission was waiting for applicant's response, the March 28 letter was returned by the U.S. Postal Service on April 4, 2013, marked "Return to Sender", "Refused", "Unable to Forward".

Shortly thereafter, applicant obtained a copy of the March 28 letter. By statement filed April 8, 2013, applicant still maintains that the Hampton Hollow address was her street address at the time she filed the first application. The record is still equivocal on that point, inasmuch as no corroborating documentation appears in the record to support that assertion. And because the Postal Service is returning mail addressed to applicant at the Montrose Road address, the address applicant maintains is her current street address, we find that applicant not only has failed to furnish a demonstrably legitimate street address, but apparently continues to mislead the

² *Id.*

Commission as to the existence and location of her office, the location where the public may expect to find her and where the Commission may expect to find her vehicle(s) and business records.

III. CONCLUSION

A certain level of candor is required of applicants for WMATC operating authority.³ It appears that applicant has not been entirely candid with the Commission. Applicant's terse responses to the Commission's inquiries into the location of her office appear calculated to reveal less rather than more. They do not rise to the level of disclosure expected of an applicant who bears the burden of production and persuasion on the issue of fitness to serve the public. Until applicant is more forthcoming with convincing evidence of the location of her principal place of business, we cannot say that applicant has met her burden of proof.⁴

THEREFORE, IT IS ORDERED that the application of Diane Rena Prince for a certificate of authority, irregular route operations, is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER, HOLCOMB, AND BELLAMY:



William S. Morrow, Jr.
Executive Director

³ *In re Ready Eager Drivers Inc*, No. AP-12-003, Order No. 13,536 at 7 (Oct. 18, 2012).

⁴ See *In re Supper LD Transp. LLC*, No. AP-12-203, Order No. 13,895 (May 7, 2013) (rescinding conditional grant in part where mail to street address returned because street address "Vacant"); Order No. 13,536, (rescinding conditional grant in part for misleading statements as to street address); *In re Elite Transp., Inc.*, No. AP-03-137, Order No. 7949 (Apr. 20, 2004) (denying application in part for misleading statements regarding alleged temporary office space).