

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2053

IN THE MATTER OF:

Served October 29, 1979

Application of ERNEST H. BANNISTER, )  
SR., for Authority to Perform )  
Charter Operations Pursuant to )  
Contract with Friendship Heights )  
Village Council )

Case No. AP-79-06

Special Application of ERNEST H. )  
BANNISTER, SR., T/A BANNISTER )  
TRANSPORTATION SERVICE, for Authori- )  
zation to Perform Charter Operations )  
Pursuant to Contract -- Friendship )  
Heights )

Case No. CP-79-05

By application filed September 27, 1979, as amended October 10 and October 19, 1979, Ernest H. Bannister, Sr., trading as Bannister Transportation Service, seeks authorization in Case No. CP-79-05 to operate pursuant to WMATC Special Certificate of Public Convenience and Necessity No. 1 under contract with the Friendship Heights Village Council transporting residents of the Village of Friendship Heights and The Hills, a special taxing district located in Montgomery County, Md., between points in the special taxing district. Bannister has been providing this service pursuant to temporary authority granted in Case No. AP-79-06 by Order No. 1999, served June 5, 1979, as modified by Order Nos. 2014, 2031, and 2045. The temporary authority, which commenced June 14, 1979, is now set to terminate on November 10, 1979, but will be extended to a full 180 days.

The application includes an amended bilateral contract between Bannister and the Village Council dated October 1, 1979. The contract calls for Bannister to operate a bus designed to transport approximately 20 passengers between 7:00 a.m. and 7:00 p.m. each Monday through Saturday as a shuttle service between specified points in Friendship Heights and The Hills. The agreement is set for a period of 181 days commencing at the Commission's issuance of authority. The Village Council may terminate the contract for any breach or other good cause at any time upon two weeks' prior notice. Compensation to Bannister is set at \$1,035 a week.

Bannister's balance sheet (undated) shows current assets of \$4,200, total assets of \$68,890, current liabilities of \$1,000, long-term liabilities of \$40,835, and owner's equity of \$27,054.50. A statement of projected revenue and revenue deduction items to be generated by the proposed operations indicates that net income (before taxes) would be approximately \$6,300 resulting from income of \$1,035 a week and deductions amounting to about \$15,500 for vehicle usage and repair, \$22,500 for employee expense and \$11,000 for office and miscellaneous expense. A certificate of insurance is already on file with the Commission. Bannister proposes to provide service in a 20-passenger Mercedes bus. He included with his application a statement of his experience in the transportation industry but did not address either the feasibility of the service or his compliance fitness as required by Regulation No. 70-04 (12) and (13).

A notarized letter from the Village Council states that residents of the Village who are to be transported include many elderly persons without private means of transportation. Under temporary authority, approximately 300 riders a day are using the service and a possible increase is anticipated with the advent of winter weather. The Village Council has investigated Bannister's qualifications and is satisfied with his ability to perform the proposed service.

Initially, a determination must be made as to the conformance of the application with the provisions of Regulation No. 70. As noted, the contracting party is a special taxing district established pursuant to Montgomery County Code, Volume III (1972 Ed.), ch. 66, Sections 1-12. As such, the Village may be considered as a "governmental agency" within the meaning of Regulation No. 70-02(c), but its residents clearly are not persons traveling on official business as defined by Regulation No. 70-02(e). The Village, however, would appear to constitute a "qualifying association" which is defined as:

a voluntary association, whether incorporated or unincorporated, of individuals or corporations having a continuing common interest and a common area, for purposes of transportation subject to this regulation, of origin or destination,

and its residents would appear to be members of a qualifying association. Thus, processing of the application under Commission Regulation No. 70 appears to be appropriate.

Pursuant to Commission Regulation No. 70-06, notice of this application must be published and an opportunity shall be granted for the filing of protests. Protests, if any, must be written, sworn and notarized, and must contain all evidence and argument upon which the

protestant would rely. Additionally, applicant must supplement its application by filing the feasibility and compliance fitness statements by the date specified below.

THEREFORE, IT IS ORDERED:

1. That Ernest H. Bannister, Sr., trading as Bannister Transportation Service, publish once, in a newspaper of general circulation in the Metropolitan District, notice of this application in the form prescribed by the staff of the Commission no later than Monday, November 5, 1979.

2. That applicant post continuously until November 15, 1979, notice of the application in the form prescribed by the staff of the Commission no later than Monday, November 5, 1979.

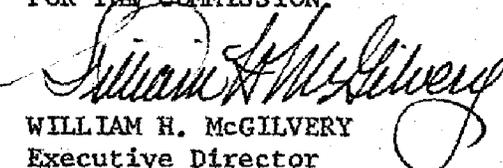
3. That applicant shall file an affidavit of such publication together with the supplemental material described above with the Commission no later than Thursday, November 15, 1979.

4. That any person desiring to protest this application shall file a notarized protest in conformance with Commission Regulation No. 70-06 at the office of the Commission, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006, no later than November 15, 1979, and shall simultaneously serve a copy of such protest on applicant, Ernest H. Bannister, Sr., 635 F Street, N. W., Suite 406, Washington, D. C. 20004.

5. That applicant shall file an original and four copies each of notarized statements required by Commission Regulation No. 70-04 (12) and (13) no later than November 15, 1979.

6. That temporary authority previously granted in Case No. AP-79-06 is hereby extended to December 10, 1979, to permit continuous service pending the processing of this application.

FOR THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Executive Director

