

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2061

IN THE MATTER OF:

Served November 21, 1979

Application of ERNEST H. BANNISTER,)
SR., T/A BANNISTER TRANSPORTATION)
SERVICE, for Special Authorization)
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 19, 1979, Ernest H. Bannister, Sr., trading as Bannister Transportation Service, seeks authorization 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. Notice of the application was published on November 5, 1979.

Order No. 2053, served October 29, 1979, generally described the evidence submitted with this application and that order is incorporated by reference herein. The Commission required Mr. Bannister to supplement his initial application by filing feasibility and compliance fitness statements, and satisfactory statements were subsequently filed.

Protests to the application were due on November 15, 1979, and were to contain all evidence and argument on which a protestant intended to rely. Colonial Transit Co., Inc., timely filed a protest challenging the fitness of applicant in view of the fact that Colonial holds a judgment against Bannister's Inc. for the sum of \$5,107, and that Ernest H. Bannister, Sr. was the president of Bannister's Inc., at the time the debt was incurred and the judgment was entered. Colonial questions whether applicant is financially or otherwise fit to operate or whether its proposed service is being established as a sole proprietorship to avoid a corporate debt incurred by the "alter ego" of Mr. Bannister.

Commission Regulation No. 70 which governs the processing of this application provides that the application shall be granted if it is determined that the applicant is fit, willing and able properly to perform

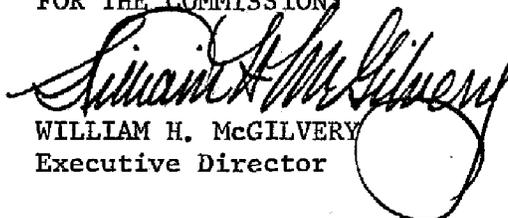
the proposed service and to conform to the provisions of the Compact and the rules, regulations, and orders of the Commission thereunder and if it is determined that the proposed operation conforms to the provisions of Regulation No. 70. The issue of whether the public convenience and necessity require such service has been determined in Case No. MP-79-04. See Order No. 2004, served June 20, 1979.

Inasmuch as the contract is for a minimum of 181 days and involves members of a qualifying association to be transported pursuant to contract with said qualifying association, the proposal conforms to the provisions of Regulation No. 70. It is also found that applicant is fit, willing and able to meet the obligations described above. The judgment that Colonial Transit has against Bannister's Inc., has not been shown to be a personal debt of Mr. Bannister or of his sole proprietorship. Furthermore, there has been no showing that the sole proprietorship is financially or otherwise unfit or that any avoidance of creditors is intended.

Accordingly, the application will be granted commensurate with the terms of the contract between Bannister Transportation Service and the Friendship Heights Village Council. An appropriate authorization is attached hereto. Finally, applicant is assigned WMATC Authorization No. SP-59-01, is directed to identify its vehicles in accordance with Commission Regulation No. 70-10, and is further directed to file an affidavit of compliance with that regulation within 10 days from the date of service hereof.

IT IS SO ORDERED.

FOR THE COMMISSION,


WILLIAM H. MCGILVERY
Executive Director

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

AUTHORIZATION NO. SP-59-01
TO OPERATE PURSUANT TO
SPECIAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 1

ERNEST H. BANNISTER, SR.

TRADING AS

BANNISTER TRANSPORTATION SERVICE

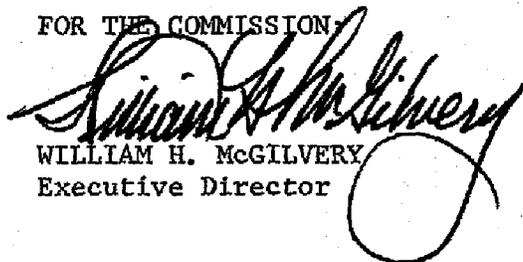
WASHINGTON, D. C.

BE IT KNOWN, that pursuant to Special Certificate of Public Convenience and Necessity No. 1 issued by the Washington Metropolitan Area Transit Commission by Order No. 2004, served June 20, 1979, and effective July 23, 1979, and pursuant to Commission Regulation No. 70 and Order No. 2061, served November 21, 1979, approving the issuance of this authorization, the above-named carrier may engage in the transportation of passengers, in charter operations pursuant to contract, between points in the Metropolitan District, as follows:

CHARTER OPERATIONS PURSUANT TO CONTRACT with Friendship Heights Village Council to transport 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.

This authorization is valid until March 30, 1980.

FOR THE COMMISSION:



WILLIAM H. MCGILVERY
Executive Director