

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2924

IN THE MATTER OF:

Served November 4, 1986

Application to Transfer Certificate)
No. 86 from NATION'S CAPITAL SIGHT-
SEEING TOURS, a Partnership, to)
ERNEST HARRELSON, a Sole Proprietor)

Case No. AP-86-40

By application filed October 17, 1986, Nation's Capital Sightseeing Tours, previously a partnership of Mr. Irving Brodsky (now deceased) and Mr. Ernest Harrelson, seeks to transfer its WMATC Certificate of Public Convenience and Necessity No. 86 to Mr. Harrelson, the surviving partner. Certificate No. 86 currently authorizes the following operations:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting passengers, restricted to lectured, round-trip sightseeing tours, between Mt. Vernon and Arlington National Cemetery, Va., and points in that part of the District of Columbia south of a line beginning at the junction of Constitution Avenue, N.W., and Rock Creek Parkway, N.W., thence along Constitution Avenue, N.W., to 17th Street, N.W., thence along 17th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to 10th Street, N.W., thence along 10th Street, N.W., to F Street, N.W., thence along F Street, N.W., to 9th Street, N.W., thence along 9th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to Constitution Avenue, N.W., thence along Constitution Avenue to its junction with 2nd Street, N.E.

RESTRICTED to the transportation of passengers in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver).

The application contains a copy of the partnership agreement which specifies the method of disposition of the partnership upon the death of one of the partners. Also included is a copy of a letter to Mr. Brodsky's surviving spouse giving notice of Mr. Harrelson's intention to continue providing service under the terms of Certificate No. 86.

By separate motion filed October 17, 1986, Mr. Harrelson seeks temporary approval to continue operating Certificate No. 86 pending a decision on the transfer application. Mr. Harrelson cites the Compact, Title II, Article XII, Section 12(d), which says, in pertinent part:

Pending the determination of an application filed with the Commission for approval of a . . . contract to operate the properties of one or more carriers, the Commission may, in its discretion, and without hearings or other proceedings, grant temporary approval, for a period not exceeding 180 days of the operation of the carrier properties sought to be acquired by the person proposing in such pending application to acquire such properties, if it shall appear that failure to grant such temporary approval may result in the destruction of or injury to such carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

We find that the survivor provisions of the partnership agreement constitute "a contract to operate the properties of one or more carriers" and that failure to grant the requested temporary approval may interfere substantially with the future usefulness of Certificate No. 86 "in the performance of adequate and continuous service to the public."

Before granting temporary approval we must consider the fitness of the transferee. In this case, Mr. Harrelson would simply continue to operate the same sightseeing service in his own vehicle as he did before under the partnership. An adequate certificate of insurance covering such operations by Mr. Harrelson is on file with the Commission. For purposes of temporary approval, we find Mr. Harrelson fit to continue providing service.

The application to transfer Certificate No. 86 will be scheduled for public hearing and Mr. Harrelson will be assessed an amount preliminarily estimated to cover hearing costs. In addition, Mr. Harrelson will be required to post and publish notice of the proposed transfer.

THEREFORE, IT IS ORDERED:

1. That Ernest Harrelson, a sole proprietor, is hereby granted temporary approval to operate Certificate of Public Convenience and Necessity No. 86 of Nation's Capital Sightseeing Tours.
2. That such temporary approval shall commence upon the date of service of this order and shall continue for 180 days, unless otherwise ordered by the Commission.

3. That Case No. AP-86-40 is hereby scheduled for public hearing to commence Thursday, December 4, 1986, at 9:30 a.m., in the hearing room of the Commission, Room 314, 1625 I Street, N.W., Washington, D.C. 20006.

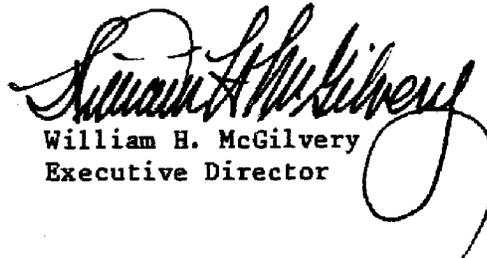
4. That Ernest Harrelson is hereby directed to publish once in a newspaper of general circulation in the Metropolitan District, notice of this application and hearing in the form prescribed by the Commission staff, no later than Monday, November 10, 1986, and to file with the Commission an affidavit of such publication no later than Monday, November 24, 1986.

5. That Ernest Harrelson is hereby directed to post conspicuously and continuously in each of its revenue vehicles notice of this application and hearing in the form prescribed by the Commission staff, from Monday, November 10, 1986, through Friday, November 21, 1986 and to file with the Commission an affidavit of such posting, no later than Monday, November 24, 1986.

6. That any person desiring to protest this application shall file a protest in accordance with Commission Rule No. 14, or any person desiring to be heard on this matter shall so notify the Commission in writing, no later than Friday, November 21, 1986, and shall simultaneously serve a copy of such protest or notice on counsel for applicant, Joel C. Weingarten, Esquire, 7910 Woodmont Avenue, #914, Bethesda, Md. 20814.

7. That Ernest Harrelson is hereby assessed \$200 pursuant to Title II, Article XII, Section 19 of the Compact and directed to deliver said amount to the office of the Commission, 1625 I Street, N.W., #316, Washington, D.C. 20006, no later than Monday, November 24, 1986.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director