

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2917

IN THE MATTER OF:

Served October 3, 1986

Application to Transfer Certificate)	Case No. AP-86-25
No. 106 from FREDERICK LIMOUSINE,)	
INC., to GAITHERSBURG LIMOUSINE)	
SERVICE, INC.)	
FREDERICK LIMOUSINE, INC.,)	Case No. MP-86-04
Suspension and Investigation of)	
Revocation of Certificate No. 106)	

By application filed June 18, 1986, Frederick Limousine, Inc. ("Frederick" or "transferor"), seeks to transfer its Certificate of Public Convenience and Necessity No. 106 to Gaithersburg Limousine Service, Inc. ("GLS" or "transferee"). Applicants filed with the Commission a purchase agreement dated June 16, 1986, whereby Frederick agreed to sell Certificate No. 106 to GLS for \$2,000, plus attorney's fees.

Certificate No. 106 authorizes the following transportation:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting passengers and their baggage, between Washington National Airport, Gravelly Point, Va., Dulles International Airport, Herndon, Va., and Union Station, Washington, D.C., on the one hand, and, on the other, points in the District of Columbia and Montgomery County, Md.

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

By Order No. 2888, served July 25, 1986, and incorporated herein by reference, we granted GLS temporary approval to operate Certificate No. 106 in order to protect the future usefulness of the certificate. Order No. 2888 also directed GLS to file with the Commission: (a) two copies of its WMATC tariff as proposed in its application; (b) an affidavit of compliance with Regulation No. 68 governing identification of motor vehicles; (c) a certificate of insurance in conformance with Regulation No. 62; (d) a list of

equipment to be used in the Metropolitan District stating make, model, serial number, and seating capacity; (e) a certificate of incorporation; and (f) its articles of incorporation. These have been filed with the Commission.

By joint motion filed September 8, 1986, Frederick and GLS seek to waive public hearing and ask that the Commission consider the merits of the application based upon the record. Inasmuch as the application involves a transfer between a carrier and a non-carrier and because there do not appear to be any disputed issues of fact pertaining either to the transfer application or the insurance investigation which was consolidated with it, the motion shall be granted. We turn now to the merits of the cases before us.

By Order No. 2865, served May 27, 1986, and incorporated herein by reference, the Commission suspended Certificate No. 106 and directed Frederick to comply with Title II, Article XII, Section 9(a) of the Compact and Commission Regulation No. 62 which deals with security for the protection of the public. Frederick was directed to file an appropriate certificate of insurance or submit other evidence in writing and under oath to show good cause why Certificate No. 106 should not be revoked. Frederick filed a letter dated May 20, 1986, which informed the Commission that it was not currently transporting passengers. The letter also revealed that Frederick was in the process of negotiating a transfer of its operating authority. Less than one month later Frederick submitted this transfer application.

Until May 7, 1986, the expiration date of its most recent certificate of insurance, Frederick had been in compliance with Commission rules and regulations. Upon being granted temporary approval GLS filed a proper insurance certificate with the Commission. Given these circumstances, the Commission finds that transferor has met its burden of proving that Certificate No. 106 should not be revoked.

The application which is the subject of Case No. AP-86-25 is governed by Title II, Article XII, Section 4(h) of the Compact which provides that "No certificate under this section may be transferred unless such transfer is approved by the Commission as being consistent with the public interest." In determining whether a transfer is consistent with the public interest we look at a number of issues including dormancy of the certificate, fitness of the transferee, and effect on the existing competitive balance.

A certificate may become dormant when operations authorized by the certificate cease. Such lack of activity may indicate that there is no longer a need for the services previously performed under the certificate. It appears that the cessation of operations by Frederick under Certificate No. 106 is not so substantial as to make dormant its certificate. Transferor failed to operate for only a brief period.

During this time Frederick was engaged in negotiations with transferee. There is no evidence in the record which suggests a lack of demand for the services authorized under Certificate No. 106 as a result of that cessation. Moreover, service pursuant to Certificate No. 106 was reinstated by GLS as soon as feasible.

We turn now to the matter of transferee's financial and compliance fitness. Transferee is a new corporation, incorporated under the laws of Maryland. It is jointly owned by Mark Nicholas and Nadine King, each of whom owns 50 percent of transferee's outstanding stock. Mr. Nicholas holds the position of president and treasurer. Ms. King acts as the corporation's vice-president and secretary. Transferee's financial statement as of June 16, 1986, indicates total assets of \$140,300 including \$51,000 cash. The statement reveals current liabilities of \$52,500, long term liabilities of \$45,000, and equity of \$42,800. Transferee projects WMATC operating income at \$240,000 for the first 12 months of operations. Operating expenses are estimated at \$189,000, and net income after allowance for depreciation and taxes is estimated at \$11,840. The application indicates sufficient cash flow during the first year of operation to enable GLS to meet its operating expenses.

Transferee plans to use four 12-passenger 1986 vans and four 1986 sedans in its operations. The rate proposed for the service ranges from \$22.50 to \$30 depending on distance traveled. Distance traveled will be determined based on a zone system specifically described in transferee's tariff. One of transferee's owner/operators is a previous employee of Frederick who is familiar with the company's operations and customers. Such familiarity with former operations would provide for a smooth transition of ownership. During the period this application has been pending, GLS has evidenced compliance with the Compact, Commission rules and regulations, and specific Commission orders. Based on the foregoing we find that the transferee is fit to engage in WMATC authorized operations.

No protests were filed, and no discernible change in the competitive balance of the market is indicated by the circumstances. Further, it does not appear that the purchase price will have any undue effect on the rates. The Commission finds that the proposed transfer is consistent with the public interest and should be approved.

THEREFORE IT IS ORDERED:

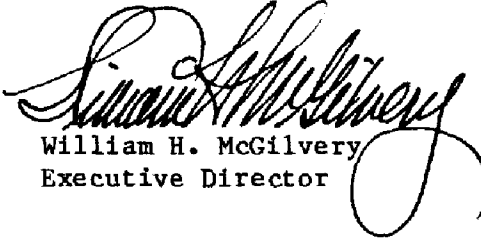
1. That the joint motion to waive public hearing is hereby granted.
2. That the application of Frederick Limousine, Inc., to transfer Certificate No. 106 to Gaithersburg Limousine Service, Inc., is hereby granted.

3. That Gaithersburg Limousine Service, Inc., is directed to file with the Commission (a) written notice that the transfer transaction has been consumated and (b) two copies of its WMATC Tariff No. 1 as contained in its application.

4. That unless Gaithersburg Limousine Service, Inc., complies with the preceding requirements within 30 days from the service date of this order, or such additional time as the Commission may authorize, the grant of approval herein will be void and the application shall stand denied in its entirety, effective upon the expiration of such time for compliance.

5. That upon compliance with the conditions set forth in the preceding paragraphs, Certificate of Public Convenience and Necessity No. 106 will be reissued to Gaithersburg Limousine Service, Inc., and Case No. MP-86-04 will be discontinued.

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


William H. McGilvery
Executive Director