

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2948

IN THE MATTER OF:

Served December 12, 1986

Application of BILL APPELL trading)
as PERSONAL PACE TOURS for a)
Certificate of Public Convenience)
and Necessity to Conduct Special)
Operations -- Sightseeing Tours)

Case No. AP-86-37

By application filed September 16, 1986, and amended October 28, 1986, Bill Appell trading as Personal Pace Tours seeks a certificate of public convenience and necessity to transport passengers in special operations between points in the Metropolitan District, 1/ restricted to round-trip sightseeing tours originating at points other than the National Mall, The Ellipse, or the Days Inn-Capital Centre, Capitol Heights, Md., 2/ and further restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver.

A public hearing was held October 29, 1986, pursuant to Order No. 2914, served September 19, 1986, and incorporated herein by

1/ To the extent that this application could be interpreted to include transportation between points located solely within the Commonwealth of Virginia, the application was dismissed by Order No. 2914 for want of jurisdiction pursuant to Title II, Article XII, Section 1(b) of the Compact.

2/ The Mall and The Ellipse are defined by applicant as follows:

. . . points in the District of Columbia bordered by a line beginning at the junction of Constitution Avenue, N.W., and Henry Bacon Drive, 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 15th Street, N.W., thence along 15th Street, N.W. to Constitution Avenue, N.W., thence along Constitution Avenue, N.W. to 1st Street, N.W., thence along 1st Street to Independence Avenue, S.W., thence along Independence Avenue, S.W. to Daniel Chester French Drive, S.W., thence along Daniel Chester French Drive to Memorial Circle, thence along Memorial Circle to Henry Bacon Drive, N.W., thence along Henry Bacon Drive, N.W., to Constitution Avenue, N.W.

reference. Applicant testified on his own behalf and presented two public witnesses. The application was protested by five certificated carriers: Scenic Sightseeing Tours, Griffin M. Murphy trading as Maxi-Bus Tours, Nation's Capital Sightseeing Tours, V.I.P. Tours, and Richard Butler. The aforementioned were represented at the hearing by their attorney. However, upon acceptance by the Administrative Law Judge of an amendment to the application which would restrict applicant's operations against originating tours on the National Mall, The Ellipse, and at the Days Inn-Capital Centre, Capitol Heights, Md., the protests were withdrawn.

SUMMARY OF EVIDENCE

Mr. Bill Appell is the sole proprietor of Personal Pace Tours. He owns and operates a taxicab; he also has experience as a former driver and tour guide with Gray Line, ^{3/} where he attended a 60-hour driver training course. He currently gives sightseeing tours in his taxicab. Mr. Appell has been providing this service for over one year, and he operated 121 tours in the six months preceding the hearing herein.

Applicant's service would include an all-day tour of the Washington area including the White House, Capitol Hill, the Smithsonian, the National Cathedral, Ford's Theatre, Lincoln Memorial, Iwo Jima Memorial, Arlington National Cemetery, and the Vietnam Memorial, with a lunch stop in Georgetown. The service includes hotel pickup and return. Applicant would supplement his sightseeing tours by using audio and visual equipment, including a video cassette player and two television screens. Applicant would present inside scenes of attractions that are on his tour. The video presentation, accompanied by lecture, would provide historical notes to the attraction then being highlighted.

In addition to the video tape presentation, applicant plans to provide each passenger with a portable cassette player and headphones. The audio presentation would include sounds related to the site. Applicant has used both audio and visual aids in the sightseeing tours he conducts in his taxicab and has received favorable responses from patrons. The proposed fare for this tour is \$42.50 per person. Reservations would be required, and the cost of lunch is not included.

Applicant expects most of his business to be generated by referrals made to guests by hotel concierges, as is currently being done at three area hotels. The applicant also expects to generate business from referrals by former customers.

^{3/} In Washington, D.C., Gold Line, Inc., holder of WMATC Certificate No. 14, holds the Gray Line franchise and is thereby associated with other Gray Line franchisees throughout the country.

Applicant plans to operate six days a week, reserving the seventh day for any needed maintenance or repair of the 1987 15-passenger van he plans to acquire. In addition to the biannual inspections required by the District of Columbia, applicant will implement his own preventive maintenance program, which he outlined in his testimony.

Applicant submitted a balance sheet dated September 16, 1986, showing current assets of \$10,000 cash and fixed assets after depreciation of \$7,699.62. Applicant lists no current or long-term liabilities and proprietor's equity of \$17,699.62. A projected operating statement for the first 12 months of operations estimates operating revenue from the proposed service of \$86,466.25. Operating expenses of \$32,494.94 are projected, with net income, after allowance for depreciation and taxes, estimated at \$25,767.14.

Mr. Louis Mejorado, chief concierge at the Hay Adams Hotel, testified in support of the application. Mr. Mejorado's duties include making hotel and airline reservations and assisting hotel guests with special needs. Recommending sightseeing services is a regular activity. The witness has recommended applicant's taxicab tour service and would continue to make such referrals if this application were granted. Based on past experience, Mr. Mejorado estimates that he would recommend applicant's services to between 18 and 22 persons a week.

Mr. Gordon Benson also testified in support of Personal Pace's application. Mr. Benson is an assistant concierge at the Hay Adams Hotel. He also serves as the vice-president of the Washington Area Concierge Association. The association is composed of concierges who represent all of the major hotels in the Washington area. The organization has approximately 100 members and 20 affiliate members. Mr. Benson was authorized to appear on behalf of the association at the hearing. Mr. Benson stated that he has frequently recommended applicant's services in the past. Mr. Benson testified that he was very supportive of applicant's operations and would whole-heartedly recommend applicant's service to members of the concierge association.

DISCUSSION AND CONCLUSIONS

In determining whether to grant a certificate of public convenience and necessity, we look to Title II, Article XII, Section 4(b) of the Compact which provides that:

. . . the Commission shall issue a certificate . . . , if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity

Based on a review of the record, we find applicant capable of providing the proposed service and willing to conform to the Compact and the Commission's rules and regulations. Applicant is an experienced driver and sightseeing lecturer. He has conducted sightseeing tours for Gray Line and has conducted private tours by taxicab similar to those here proposed by van. Applicant will follow a daily maintenance routine and will adhere to a preventive maintenance program. He has undergone extensive training and understands the importance of safe vehicle operation. Applicant's financial data show adequate financing to begin and sustain the proposed operations. Finally, Mr. Appell is familiar with the Compact and the Commission's rules and regulations and is willing to comply with them.

We now turn to the matter of whether applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service. Here, the Commission relies on the test enunciated in Pan-American Bus Lines Operations (1 MCC 190, 203 [1936]). The Pan-American test consists of three parts:

- (1) whether the new operation or service will serve a useful public purpose responsive to a public demand or need;
- (2) whether this purpose can and will be served as well by existing lines or carriers; and
- (3) whether it can be served by applicant with the new operations or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

Applicant presented two public witnesses. Based on their testimony we find that Mr. Appell has met his burden of proving that the proposed service will serve a useful public purpose responsive to public demand and need.

Visitors to Washington, D.C., may have little or no real knowledge of available sightseeing services. Many, therefore, rely on suggestions made by the hotel concierge. Even though referrals made by individual concierges usually reflect their personal opinion of how a particular carrier may meet the needs of a guest, hotel patrons often view the quality of service and level of enjoyment as a reflection on the hotel. Repeated referrals indicate confidence in applicant's service. Mr. Meorado anticipates that he will refer 18 to 22 guests a week to Mr. Appell's service. Mr. Benson has referred many hotel guests to applicant in the past and has encouraged applicant to expand operations. Mr. Benson's enthusiasm for applicant's service is evidenced by his willingness to recommend applicant's service to the members of the Washington Area Concierge Association.

The record indicates that applicant will offer the public a unique sightseeing service, one that is not presently being offered by any existing carrier. Applicant's use of audio and visual equipment adds a new dimension to traditional sightseeing approaches, and it provides the public with a broader range of sightseeing services from which to choose.

Personal Pace's amendment to the application alleviated the concern of existing carriers that the proposed service would endanger or impair their operations. As previously mentioned, all of the protests were withdrawn when a restrictive amendment was accepted by the Administrative Law Judge.

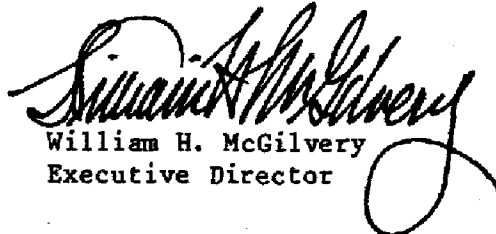
THEREFORE, IT IS ORDERED:

1. That Bill Appell trading as Personal Pace Tours is hereby granted authority to transport passengers in special operations between points in the Metropolitan District (except between points located solely within the Commonwealth of Virginia), restricted to round-trip sightseeing tours, further restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver, and further restricted against originating such tours at the National Mall and The Ellipse as defined hereinbefore, and the Days Inn-Capital Centre, Capitol Heights, Md.

2. That Bill Appell trading as Personal Pace Tours is hereby directed to file the following: (1) two copies of his WMATC Tariff No. 1 as proposed in his application; (2) an equipment list specifying make, model, serial number, vehicle identification number, and license plate number for each vehicle to be used in WMATC operations; (3) a certificate of insurance in accordance with Regulation No. 62; (4) an affidavit of identification of vehicles pursuant to Regulation No. 68, for which purpose WMATC No. 130 is hereby assigned.

3. That unless Bill Appell trading as Personal Pace Tours complies with the requirements of the preceding paragraph within 30 days from the service date of this order, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

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


William H. McGilvery
Executive Director