

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-167BP

APPLICATION OF HIGHLAND P.U.D. ASSOCIATION, 2284 S. FRONTAGE ROAD WEST, VAIL, COLORADO FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING APPLICATION**

Mailed Date: November 8, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On April 8, 2004, Highland P.U.D. Association (Applicant) filed an application to operate as a contract carrier by motor vehicle for hire.

2. On May 3, 2004, the Commission issued notice of the application as follows:

For authority to operate as a contract carrier by motor vehicle for hire for the transportation of

passengers and their baggage,

between all points within a 55-mile radius of Streamside at Vail, 2284 S. Frontage Road West, Vail, Colorado 81657.

RESTRICTIONS: This application is restricted to providing transportation services for the following:

- (1) Aspen at Streamside Condominium Association, 2244 S. Frontage Road West, Vail, Colorado 81657;
- (2) Birch at Streamside Condominium Association, 2254 S. Frontage Road West, Vail, Colorado 81657;
- (3) Cedar at Streamside Condominium Association, 2274 S. Frontage Road West, Vail, Colorado 81657;
- (4) Douglas at Streamside Condominium Association, 2284 S. Frontage Road West, Vail, Colorado 81657; and

- (5) Evergreen at Streamside Condominium Association, 2290 S. Frontage Road West, Vail, Colorado 81657.

3. On May 12, 2004, Vail Valley Transportation, Inc., and Vail Valley Taxi, Inc. (Intervenors), filed an Entry of Appearance and Notice of Intervention.

4. The Commission scheduled a hearing of this matter for July 12, 2004. The hearing was rescheduled for September 9, 2004 at the request of Intervenors. This scheduled hearing date was vacated orally at the request of the parties since the matter was settled through negotiation.

5. On November 2, 2004, Applicant and Intervenors filed a settlement document.

6. In this document, Applicant agreed to restrictively amend its application as follows:

1. The application is to be modified so that the vehicle to be used by Applicant shall have a seating capacity of 25 people, including the driver;
2. The vehicle shall be operated by employees of the Applicant and not by independent contractor. Additionally, vehicles shall be owned and operated by the Applicant;
3. Passengers in the vehicle shall only consist of owners of condominium units of the Applicant, their household guests, and lessees of the owners of Applicant's condominium units; and
4. The vehicles shall only be used for the transportation of above described individuals to scheduled special events.

7. Intervenors state that if the Commission accepts the restrictive amendment, they will withdraw their intervention.

8. It is found that the proposed restrictive amendment of Applicant is restrictive in nature, clearly stated, and enforceable. The restrictive amendment will be accepted.

9. Since this application is now noncontested, the matter may be handled pursuant to the Commission's modified procedure under the provisions of § 40-6-109(5), C.R.S., and

Rule 24(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

10. It is found and concluded that Applicant is financially and otherwise fit to provide the specialized transportation service needed by its customers. These findings are based upon the application, financial statement, support letters, and other documents contained in the official file of the Commission.

11. Pursuant to § 40-6-109, C.R.S., it is recommended the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The restrictive amendment filed by Applicant Highland P.U.D. Association on November 2, 2004 is accepted.

2. Highland P.U.D. Association is granted authority to operate as a contract carrier by motor vehicle for hire for the transportation of:

passengers and their baggage,

between all points within a 55-mile radius of Streamside at Vail, 2284 S. Frontage Road West, Vail, Colorado 81657.

RESTRICTIONS:

(A) This application is restricted to providing transportation service for the following:

- (1) Aspen at Streamside Condominium Association, 2244 S. Frontage Road West, Vail, Colorado 81657;
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(4) Douglas at Streamside Condominium Association, 2284 S. Frontage Road West, Vail, Colorado 81657; and

(5) Evergreen at Streamside Condominium Association, 2290 S. Frontage Road West, Vail, Colorado 81657.

- a. Restricted to vehicles that have a seating capacity of 25 people, including the driver;
- b. Vehicles shall be operated by employees of the Applicant and not by independent contractor. Vehicles shall be owned and operated by Applicant.
- c. Passengers in the vehicles shall only consist of owners of condominium units of the Applicant, their household guests and lessees of the owner of Applicant's condominium units.
- d. The vehicles shall only be used for the transportation of the above described individuals to scheduled special events.

3. The authority granted in ordering paragraph no. 2 is conditioned on Applicant meeting the requirements contained in this Order and is not effective until these requirements have been met.

4. All operations shall be strictly contract operations.

5. Applicant shall file the necessary tariffs, required insurance, and comply with any other requirement of the Commission. Operations may not begin until these requirements have been met and the Applicant has been notified by the Commission that operations may begin. If the Applicant does not comply with the requirements of this ordering paragraph within 60 days of the mailing date of this Order, then ordering paragraph no. 2 which grants authority to the Applicant shall be void and the authority granted will then be void. On good cause shown, the Commission may grant additional time for compliance provided the request is filed with the Commission within the 60-day period.

6. The right of Applicant to operate shall depend upon its compliance with all present and future laws and regulations of the Commission.

7. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

8. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

9. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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