

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
ROBERT'S TOUR AND TRANSPORTATION,)
INC. and CARRY ALL, INC.)
For a Motor Carrier Certificate or)
Or Permit.)

DOCKET NO. 2006-0461

DECISION ORDER NO. 23175

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed Dec. 29, 2006
At 11 o'clock A .M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
ROBERT'S TOUR AND TRANSPORTATION,)
INC. and CARRY ALL, INC.)
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_____)

Docket No. 2006-0461
Decision and Order No. 23175

DECISION AND ORDER

By this Decision and Order, the commission approves ROBERT'S TOUR AND TRANSPORTATION, INC. ("Robert's") and CARRY ALL, INC.'s ("Carry All") (collectively, "Applicants") request to encumber property used for regulated transportation services, pursuant to Hawaii Revised Statutes ("HRS") § 271-18(b).

I.

Background

Robert's is a common carrier of passengers by motor vehicle over irregular routes on the islands of Oahu, Maui, Hawaii and Kauai in the 1-to-7, 8-to-25 and over-25 passenger classifications, pursuant to certificate of public convenience and necessity ("CPCN") number 821-C. Carry-All is a common carrier of property by motor vehicle authorized to operate in the general commodities classification on the island of Oahu, under CPCN no. 174-C.

By application filed on October 10, 2006,¹ as supplemented on December 28, 2006 ("Application"), Applicants requested commission approval to encumber property used for regulated transportation services to finance the purchase of stock in Applicants' parent company, Robert's Hawaii, Inc. ("Robert's Hawaii"), by its employees through an employee stock ownership plan ("ESOP").²

II.

Discussion

Haw. Rev. Stat. § 271-18(b) states in relevant part:

No motor carrier shall sell, lease, assign, mortgage, or otherwise dispose of, or encumber the whole or any part of its property necessary or useful in the performance of transportation services for the public or any certificate of public convenience and necessity or permit; nor shall any motor carrier, by any means, directly or indirectly, merge or consolidate its property, certificates of public convenience and necessity or permits, or any part thereof, with any other carrier, without first having secured from the public utilities commission an order authorizing it so to do. Every such sale, lease, assignment,

¹In connection with its Application, Applicants filed a Request for Waiver Associated With an Application for Approval to Encumber Property on November 22, 2006, seeking to waive the requirements of Hawaii Administrative Rules §§ 6-61-101(a)(3)-(5), 6-61-101(b)(2)-(9) except (4), 6-61-105(b) and (c), 6-61-75(a)(1)-(7), and 6-61-75(b)(1)-(2). As there appears to be no legal basis to support the waiver request, the commission denies the request.

²The Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate") declined to participate in this proceeding. See Consumer Advocate's Statement of Position filed on December 13, 2006.

mortgage, disposition, encumbrance, merger, or consolidation, made other than in accordance with the order of the commission authorizing the same is void.

Haw. Rev. Stat. § 271-18(b).

Here, based on the statements contained in the Application, and the competitive nature of the motor carrier industry,³ the commission finds that the proposed encumbrance is consistent with the public interest. However, the commission reserves the right to impose terms and conditions in the future if required by the public interest.

III.

Orders

THE COMMISSION ORDERS:

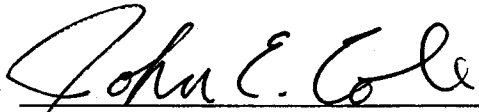
Applicants' request to encumber property used for regulated transportation services as described in its application filed on October 10, 2006, as supplemented on December 28, 2006, is approved.

³As of December 28, 2006, there were 573 active passenger motor carriers and 484 active property carriers.

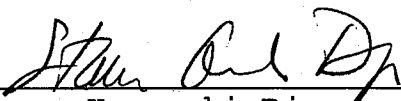
DONE at Honolulu, Hawaii DEC 29 2006

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Stacey Kawasaki Djou
Commission Counsel

06-0461.ac

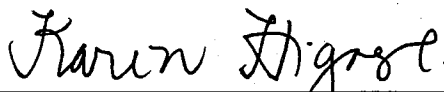
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23175 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
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Honolulu, HI 96809

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Karen Higashi

DATED: DEC 29 2006