

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
MICHAEL JOHN MONTAPERT, dba)
KAUAI SNORKEL TOURS)
)
To Sell, Lease, Assign, Mortgage or)
Otherwise Dispose of, or Encumber)
The Whole or Any Part of Its)
Property, Certificate, or Permit.)
_____)

DOCKET NO. 05-0225

DECISION AND ORDER NO. 22175

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

2005 DEC 14 A 8:16

RECEIVED

Filed Dec. 9, 2005
At 8 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.

the island of Kauai in the 8-to-25 passenger classification, limited to providing transportation services in conjunction with its snorkel tours.

Transferor served copies of the application on the Hawaii Transportation Association, which consists of carriers that may be affected by the proposed transfer, and on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate"). The Consumer Advocate did not participate in this proceeding, and no persons moved to intervene in this docket.

II.

Findings and Conclusions

Upon review of Transferor's request to transfer Certificate No. 3560-C to transferee on a permanent basis, the commission finds that Transferee is fit, willing, and able to perform the services presently performed by Transferor, and that the proposed transfer of Certificate No. 3560-C is just and reasonable and will be consistent with the public interest. Accordingly, the commission concludes that the proposed transfer is in accordance with HRS § 271-18, and should, therefore, be approved.

With respect to Transferor's request for temporary approval to transfer Certificate No. 3560-C, the commission's approval of Transferor's request to transfer Certificate No. 3560-C to Transferee on a permanent basis in the instant application renders moot Transferor's request for

temporary approval of the transfer. We, thus, conclude that there is good cause to dismiss Transferor's request for temporary approval of the transfer.

III.

Orders

THE COMMISSION ORDERS:

1. Transferor's request to transfer Certificate No. 3560-C to Transferee is approved.

2. Transferor's request for temporary approval to transfer Certificate No. 3560-C to Transferee, having been rendered moot, is dismissed.

3. Transferee shall comply with all of the commission's requirements for common carriers by motor vehicle including, but not limited to, filing a lawful tariff, paying a fee of \$20 for motor carrier gross revenues, and filing the appropriate insurance documents.

4. Transferor shall surrender Certificate No. 3560-C, and a certificate reflecting the operating authority granted by this Decision and Order shall be issued to Transferee.

5. Transferor shall file with the commission his annual financial report for the period of operation from January 1, 2005, to the effective date of this Decision and Order, and shall pay the associated motor carrier gross revenue fee.

6. Transferor and Transferee shall comply with the foregoing requirements within one hundred and twenty (120) days

after service of this Decision and Order. Failure to comply within the time specified constitutes cause for this commission to void this Decision and Order.

7. Transferee shall not commence operations under this Decision and Order until it has received written confirmation from the commission that all requirements have been met.

DONE at Honolulu, Hawaii DEC - 9 2005.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By (Excused)
Wayne H. Kimura, Commissioner

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

Stacey Kawasaki Djou
Stacey Kawasaki Djou
Commission Counsel

05-0225.rpr

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22175 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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Lawai, HI 96765

KAUAI SNORKEL TOURS, INC.
P. O. Box 255
Lawai, HI 96765



Karen Higashi

DATED: DEC - 9 2005