

Licence Application Decision

Inter-City Bus (ICB)

Application #	9523-20
Applicant & Application Summary	Waivin Flags Ltd. <i>Trade Name:</i> Waivin Flags Taxi New ICBA Licence <ul style="list-style-type: none">• New Special Authorization: Inter-City Bus Authorization (ICBA)• Operate the following route:<ul style="list-style-type: none">○ Route A: Port Hardy – Campbell River
Applicant Information	<i>Current Passenger Transportation Licence:</i> #72090 with: <ul style="list-style-type: none">• Passenger Directed Vehicle Authorization (PDVA)• General Authorization (GA) <i>Principal:</i> <ul style="list-style-type: none">• Paige QUANSAH <i>Office:</i> 7210-1 Market Street, Port Hardy, BC V0N 2P0
Publication of Application	July 15, 2020
Submissions & Public Comments	None received.
Board Decision	The application is approved in whole: <ul style="list-style-type: none">• The new Special Authorization (ICBA) is approved.• Proposed terms and conditions respecting Routes A are approved as set out in the application summary.
More Info	Notice of applications and published decisions are posted in the PT Board Bulletin . For convenience, published documents for recent ICB applications are listed on the bus application webpage .
Decision Date	September 9, 2020
Panel Chair	William Bell

I. Introduction

Waivin Flags Ltd. (WFL) is applying for a new inter-city bus authorization (ICBA) to operate Route A (Port Hardy – Campbell River) with minimum route frequency (MRF) of three trips per week in each direction.

Route A serves a minimum of five communities along Highway 19:

- Port Hardy
- Port McNeill
- Sayward
- Campbell River
- Woss
- Campbell River

The proposed route is shown in Figure 1 below:

Figure 1: Route A



II. Background

WFL is located in Port Hardy, B.C. It holds passenger transportation licence #72090 with a General Authorization (GA) and a Special Authorization (SA): Passenger Directed Vehicles. Under these licences it operates taxi services in the Port Hardy and Port McNeill areas and shuttle services from specified areas to the Port Hardy Airport and return. Tofino Bus Services Inc. (TBSI) is an inter-city bus (ICB) operator with a licence (#75127) to operate bus service on Vancouver Island. In August 2020, it received approval from the Board (application #9000-20) to withdraw its Route 5 (City of Campbell River-District of Port Hardy) that served a variety of communities with a minimum route frequency of 1 trip per day in each direction. TBSI was the sole operator on this corridor and its departure represents a loss of bus service to the public and access to safe and essential transportation for work, leisure, education, health and family related matters.

III. Mandate & Jurisdiction

This application is made under the *Passenger Transportation Act* (the “Act”). The Act regulates the licensing and operation of commercial passenger transportation vehicles in BC.

Under the Act, the Passenger Transportation Board (the “Board”) makes decisions on applications for inter-city buses. The Board has the authority to consider and approve applications for new licences as well as applications from existing licensees to change terms or conditions of their licences.

The Board’s mandate is stated in section 28 of the Act. Section 28(1) of the Passenger Transportation Act says that the Board may approve, in whole or in part, an application forwarded to it under s. 26(1) after considering whether:

- (a) there is a public need for the service the applicant proposed to provide under any special authorization.
- (b) the applicant is a fit and proper person to provide that service and is capable of providing that service, and
- (c) the application, if granted, would promote sound economic conditions in the passenger transportation business in British Columbia.

In July 2018, the Board created a streamlined application process and package to make it faster and easier for commercial ICB operators to start replacement services on routes that Greyhound or other operators exit. The Board is deciding this application utilizing the simplified ICB application process.

In the simplified ICB application process, much of the decision-making focus of the Board is on applicant fitness. Generally, with the simplified ICB process, the PT Board is taking the view that a withdrawal of the sole carrier on a route creates a public need for a replacement service and that approving a new ICB on a route without commercial ICB service would promote sound economic conditions.

The Act allows the Board to, among other things:

- accept evidence and information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in a court of law. [Section 15]
- conduct written, electronic or oral hearings, or any combination of them, as the Board, in its sole discretion, considers appropriate. [Section 17]
- require further information from an applicant. [Section 27(1)(b)]

Section 26(2) of the Act requires the Board to publish the fact and nature of applications and section 27(3) requires the Board to consider applications and any written submissions it receives as result of publication. Section 27(5) says that people who make submissions are not entitled to disclosure of further information, unless the Board orders otherwise. If the Board approves an application, it will set terms and conditions of licence primarily with respect to routes and service levels.

IV. Procedural Matters

The applicant submitted required forms.

This application is being conducted by way of a written hearing.

V. Applicant's Rationale and Submissions

Public Explanation

The applicant, WFL, provided the following text in the Application Summary that was published in the *Weekly Bulletin*:

"This route was terminated by the previous carrier. We are an established taxi/shuttle service in Port McNeil/Port Hardy and would be more than suitable since we have all needed vehicles for this run."

Submissions & Applicant's Response

The Board did not receive submissions on this application.

VI. Reasons for the Board's Decision

Section 28(1) of the Act sets out the factors the Board must consider with respect to this application.

(1) Is the applicant a fit and proper person to provide its proposed service, and is the applicant capable of providing the service?

The Board looks at this question in two parts:

- (a) is the applicant a fit and proper person to provide the proposed service; and,
- (b) is the applicant capable of providing the service?

First, with *fit and proper*, the *Oxford English Dictionary* defines *fit* as including “well adapted or suited to the conditions or circumstances of the case, answering the purpose, proper or appropriate possessing the necessary qualifications, properly qualified, competent, deserving.” Also, the dictionary defines *proper* as including “suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; of the requisite standard or type; apt, fitting; correct, right.” When looking at whether an applicant is fit and proper, the Board does so in the context of the passenger transportation industry in British Columbia. This includes the regulatory system that grants businesses a licence which confers on them both the authorization they need to provide their service and an ongoing obligation to operate in accordance with proper standards of conduct.

Second, capability is generally understood to mean that an applicant has the ability or qualities necessary to skillfully and effectively meet its obligations and achieve the results it says it will achieve. When looking at capability, the Board reflects on whether the applicant has demonstrated that it has the knowledge and understanding of relevant regulatory requirements and policies that govern passenger transportation providers, and whether it is able to comply with those requirements.

It also looks at whether the applicant has the background, skills and knowledge to manage its proposed service, and the financing to operate it. The Board expects an applicant to demonstrate its competence and ability by providing sound and realistic information in its business plan and financial statements that is consistent and compatible with the transportation service it proposes.

WFL was incorporated on March 14, 2011. Its National Safety Code certificate is in good standing with a rating of "Satisfactory-Unaudited". Ms. Page Quansah is the President and Owner-Operator. The disclosure and declaration forms were completed to the satisfaction of the Board. There has not been any information brought to my attention to prove the applicant is not fit and proper.

Ms. Quansah manages the day to day operations of the company that has grown since 2015 with a taxi service that started in Port McNeill and that has expanded to Port Hardy. The fleet of the company is comprised of 7 taxis and 3 other passenger directed vehicles. Despite having buses in its fleet, WFL plans on purchasing a highway coach as an addition to its fleet for the comfort of passengers. Bus drivers hired by the company must have a clean abstract, be drug free, pass a criminal record check and have a minimum of two years' experience.

A condensed operating plan was provided with the application and outlined dispatch and booking information that will allow passengers to access the service at designated stands and through advanced reservations by phone, on-line and through third parties (e.g. travel agents, hotel staff, etc.). Vehicles will be dispatched by phone, radio and via a smartphone or app. Financial information included a balance sheet and cash flow projections for 36 months. The balance sheet indicates a viable operation and the wherewithal for the applicant company to fund the proposed ICB service. The cash flow projections outlined a breakdown of operating expenses, including vehicle maintenance, that appear rational and reasonable for the proposed ICB operation at start-up. While these projections are highly conservative throughout the 36-month period, with experience the applicant should be able to adjust and refine them.

The applicant has the experience, skills, operational knowledge and capacity to service the proposed route. Based on the information provided, I find the applicant fit and proper and capable of providing the inter-city bus service.

(2) Is there is a public need for the service the applicant proposes to provide?

An applicant is required to demonstrate public need by showing that there are people who would use the proposed service.

Applicants should provide clear information about the service it proposes, and they should provide supporting evidence that is factual and objective. They should not rely on general claims and their own opinion. The Board reviews applications and considers the extent and type of need that has been demonstrated for the proposed service.

The Board looks at the state of inter-city bus services in the area where the applicant is applying to operate. It may consider such things as:

- Will the service fill a gap in the market?
- Has an inter-city bus company recently left the market?
- Has the applicant shown that current service levels are unsatisfactory?

Generally, with the simplified ICB process, the PT Board is taking the view that a withdrawal of the sole carrier on a route creates a public need for a replacement service. The applicant is proposing to operate an ICB service between Port Hardy and Campbell River with similar route stops provided by the previous operator (TBSI). I consider the gap created by the withdrawal of the prior service as representing public need.

In addition, the application included four support letters. One came from a Director, Regional District Mount Waddington (Area A) that provided a strong testimony to the applicant's professionalism and experience operating quality transportation services and who will give clients the needed ICB service on the proposed corridor. In addition, three other support letters came from a variety of business operations that indicate a potential user base and support for the expansion of an ICB transportation option for the public.

Therefore, I am satisfied that there is a public need for the proposed ICB service for Route A.

(3) Would approving the application support sound economic conditions in the passenger transportation business in British Columbia?

In considering sound economic conditions, the Board strives to balance public need for available, accessible and reliable commercial passenger transportation services with overall industry viability and competitiveness. The Board considers the issue from a wide-ranging perspective, which includes a consideration of harm to other industry participants. Generally speaking, it is the Board's view that the overall economic interests of the transportation business weigh more heavily than the economic and financial interests of any particular applicant.

The Board considers how the service could benefit the market and whether the market has the capacity to absorb additional services. It may consider such things as:

- Will the service give the public additional transportation options?
- Does the market place have the capacity to absorb another service?
- Are there inter-city bus providers in the target market area?
- Will the services supplement another non-transportation business?

This is an application to fill a service gap for local residents and businesses and tourists in an area that has limited transportation options. WFL has transportation experience in the market and will serve communities that require an ICB option. Further, there are no competitive ICB operations present in the area to be served and thus no negative harm should result from approval of this application. Rather, a needed ICB service is being reinstated.

I find that approving the application would promote sound economic conditions in the passenger transportation industry in BC.

VII. Conclusion

For the reasons above, this application is approved in whole. The Board establishes notice and activation requirements, and terms and conditions of licence that are attached to this decision as Appendices 1 and 2. These form an integral part of the decision.

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Waivin Flags Taxi

Appendix 1: Terms & Conditions: Issuance of Licence with ICB Authorization

1. General:

A Passenger Transportation Licence must be issued by the Registrar of Passenger Transportation under section 29 of the Passenger Transportation Act or renewed under section 34 before the special authorization approved in this decision may be exercised.

2. Direction to the Applicant:

Unless otherwise ordered by the Passenger Transportation Board, WAIVIN FLAGS LTD. must, no later than **October 31, 2020**:

- a. post time schedules online and make available to the public online its reservation system to enable advance bookings.
- b. provide copies or links to the Registrar of Passenger Transportation.

3. Notice to Registrar

A licence that includes the Inter-City Bus Authorization approved by the Board in this decision may only be issued after the Registrar is satisfied that WAIVIN FLAGS LTD has met requirements set out in 2(a) above.

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Appendix 2: Terms & Conditions of Licence

Special Authorization INTER-CITY BUS AUTHORIZATION (ICBA) Terms & Conditions	
Definitions	<p>“Board” means the Passenger Transportation Board</p> <p>“Registrar” means the Registrar, Passenger Transportation</p>
A. Legislative Requirements	
Vehicle Identifiers	<p>Each motor vehicle operated under this authorization must display, at the times and in the form and manner required by the Registrar, a vehicle identifier that is:</p> <p style="padding-left: 40px;">(a) issued to the licensee by the Registrar; or</p> <p style="padding-left: 40px;">(b) authorized by the Registrar to be issued by the licensee.</p>
B. Services	
Services	<p>Transportation of passengers must be provided:</p> <p style="padding-left: 40px;">(a) on a scheduled basis; and</p> <p style="padding-left: 40px;">(b) in accordance with minimum frequencies and other terms and conditions of licence that apply to the routes and route points.</p>
Schedules	<p>The licence holder must publish, in a manner accessible to the general public, a schedule for each route with the time and location of each stop; and must carry in each vehicle a copy of the schedule that the vehicle is following.</p>
Alternative Points	<p>The licence holder may pick up or drop off passengers at any location, municipality or unincorporated area that is between the terminating points and along the highway corridors for the inter-city bus routes below.</p>

Route 1	
Terminating Point 1:	Campbell River
Terminating Point 2:	Port Hardy
Corridors:	Highway 19: Port Hardy – Campbell River Highway 19: Campbell River – Port Hardy
Route Points	Minimum Frequencies
District of Port Hardy	3 trips per week (each direction)
Town Port McNeill	3 trips per week (each direction)
Woss	3 trips per week (each direction)
Village of Sayward	3 trips per week (each direction)
City of Campbell River	3 trips per week (each direction)
C. Other Requirements	
Transfer of a licence	This special authorization may not be assigned or transferred except with the approval of the Board pursuant to section 30 of the <i>Passenger Transportation Act</i> .
Liquor Control and Licensing Act Cannabis Control and Licensing Act	The licensee must at all times ensure passenger directed vehicles under their licence are operated in compliance with the <i>Liquor Control and Licensing Act</i> and the <i>Cannabis Control and Licensing Act</i> .

Special Authorization Passenger Directed Vehicles Authorization Terms & Conditions	
Definitions	<p>“Board” means the Passenger Transportation Board</p> <p>“Registrar” means the Registrar, Passenger Transportation</p>
A. Legislative Requirements	
Vehicle Identifiers	<p>Each motor vehicle operated under this authorization must display, at the times and in the form and manner required by the Registrar, a vehicle identifier that is:</p> <p>(a) issued to the licensee by the Registrar; or</p> <p>(b) authorized by the Registrar to be issued by the licensee.</p>
Data Requirements	<p>The licensee must provide to the Registrar any information, including personal information, and data that the Registrar or Board may require, and as may be set in any applicable supplemental terms and conditions and orders of the Registrar or Board, within time periods that the Registrar or Board may require, which may include, without limitation, information and data set out in section 28(5)(a) to (c) of the <i>Passenger Transportation Act</i>.</p>
B. Passenger Transportation Vehicles	
Maximum Fleet Size:	<p>10 vehicles of which:</p> <ul style="list-style-type: none"> • two (2-7) passenger vehicles may be used under Service 1 • one (6-11) passenger vehicle may be used under Service 2 • five (2-7) passenger vehicles may be used under Service 3 • two (10-11) passenger vehicles may be used under Services 4, 5 & 6
Services	
Service 1	
Originating Area:	<p>Transportation of passengers may only originate from Port McNeill and points along the following corridors:</p> <ul style="list-style-type: none"> • Highway 19 between Port Hardy and Sayward (including Zeballos and Woss), and • Highway 30 to and including Port Alice.

Destination Area:	Transportation of passengers may terminate at any point on Vancouver Island between Port Hardy and Victoria International Airport.
Reverse Trips	Transportation of passengers may only originate in the destination area if the transportation terminates in the originating area.
Express authorizations:	(i) Vehicles may, from within the originating areas only, pick up passengers who hail or flag the motor vehicle from the street.
Service 2	
Originating Area:	Transportation of passengers may only originate from Port McNeill, Beaver Cove, Telegraph Cove, Nimpkish Heights, Hyde Creek or Port Hardy.
Destination Area:	Transportation of passengers may terminate at Port Hardy Airport.
Reverse Trips:	Transportation of passengers may only originate in the destination area if the transportation terminates in the originating area.
Service 3	
Originating Area:	Transportation of passengers may only originate from Port Hardy and points along the following corridors: <ul style="list-style-type: none"> • Highway 19 between Port Hardy and Sayward (including Zeballos and Woss), and • Highway 30 to and including Port Alice
Destination Area:	Transportation of passengers may terminate at any point on Vancouver Island between Port Hardy and Victoria International Airport.
Reverse Trips	Transportation of passengers may only originate in the destination area if the transportation terminates in the originating area.
Service 4	
Originating Area:	Transportation of passengers may only originate from any point in the District of Port Hardy.
Destination Area:	Transportation of passengers may only terminate at any point: <ul style="list-style-type: none"> • in the Metro Vancouver Regional District north of the Fraser River east to Maple Ridge and north to Porteau Cove • in the Metro Vancouver Regional District south of the Fraser River east to but not including Langley, and south to the Canada/US border • on Vancouver Island

Return Trips:	The same passengers may only be returned from where their trip terminates in the <i>destination area</i> to any point in the <i>originating area</i> if the return trip is arranged by the time the originating trip terminates.
Service 5	
Originating Area:	Transportation of passengers may only originate from the Port Hardy Airport only.
Destination Area:	Transportation of passengers may only terminate at any point in the District of Port Hardy.
Reverse Trips:	Transportation of passengers may only originate in the <i>destination area</i> if the transportation terminates in the <i>originating area</i> .
Service 6	
Originating Area:	Transportation of passengers may only originate at the ferry landing at Bear Cove.
Destination Area:	Transportation of passengers may only terminate at any point in the District of Port Hardy.
Reverse Trips:	Transportation of passengers may only originate in the destination area if the transportation terminates in the originating area.
Other	
<i>Liquor Control and Licensing Act</i> <i>Cannabis Control and Licensing Act</i>	The licensee must ensure passenger directed vehicles under their licence are operated at all times in compliance with the <i>Liquor Control and Licensing Act</i> and the <i>Cannabis Control and Licensing Act</i> .
Transfer of a Licence	This special authorization licence may not be assigned or transferred except with the approval of the Board pursuant to section 30 of the <i>Passenger Transportation Act</i> .

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Appendix 3: Supplementary Terms & Conditions

Supplementary Terms & Conditions Respecting Taxi & Other PDVA Apps, effective September 25, 2019, apply to vehicles with an app that is used for dispatch but not payment processing.

Appendix 4: Data Requirements

Data Requirements, effective September 3, 2019, are applicable.