



Ontario Highway Transport Board

ANNUAL REPORT 2018

Table of Contents

The Board.....	3
Message from the Chair.....	4
Organizational Chart.....	5
Performance Measures.....	6
Financial Information.....	7
Applications (Special Authorities Processed /Applications Received)	8
Applications Received by Region.....	9
Hearings Adjudicated.....	9
Summaries – Reasons for Decisions.....	10

To: The Honourable Caroline Mulroney
Minister of Transportation

In accordance with Section 33 of the *Ontario Highway Transport Board Act*, R.S.O. 1990, c. 0.19, I have the honour to present the report of the activities of the Ontario Highway Transport Board for 2018.

Respectfully submitted,

Original signed by

Gilles Morin
Chair

The Board

The Board is constituted by virtue of and in accordance with the provisions of the *Ontario Highway Transport Board Act*, R.S.O. 1990, c. 0.19. It operates as a quasi-judicial administrative tribunal. Under the *Public Vehicles Act*, R.S.O. 1990, c. P.54 and the *Motor Vehicle Transport Act*, 1987, R.S. (1985) c. 29 (3rd. Supp.), the Board controls entry and maintains an orderly development in the business of transporting passengers for compensation in public vehicles, into, out of, within and through Ontario.

Member of the Board

Gilles Morin, Chair

Message from the Chair

The Ontario Highway Transport Board (OHTB) administers both federal and provincial legislation – the *Ontario Highway Transport Board Act*, the *Public Vehicles Act* and the *Motor Vehicle Transport Act* (federal). Under this legislation, the Board oversees the entry into and the orderly development of the business of transporting passengers for compensation in public vehicles within Ontario and to and from other jurisdictions.

The Board receives two types of applications: applications for new or extended authority and applications filed by interested parties, alleging a contravention of the legislation.

Board staff is spending more time with the opposing parties in an attempt to reach a compromise situation that is acceptable to everyone and that eliminates the requirement for a public hearing. This process has dramatically reduced the number of oral hearings thereby reducing costs to the parties and the time involved.

In the event that this is not the case, then the matter will proceed to a public hearing. Prior to the hearing, Board staff will try to bring the parties together in an attempt to shorten the time required for the hearing. This streamlined approach helps to minimize the costs for the parties involved.

Public hearings are held at any location in the Province and at any time of the day or night to facilitate the process for the applicant, respondent(s) and the general public that appear in support of an application.

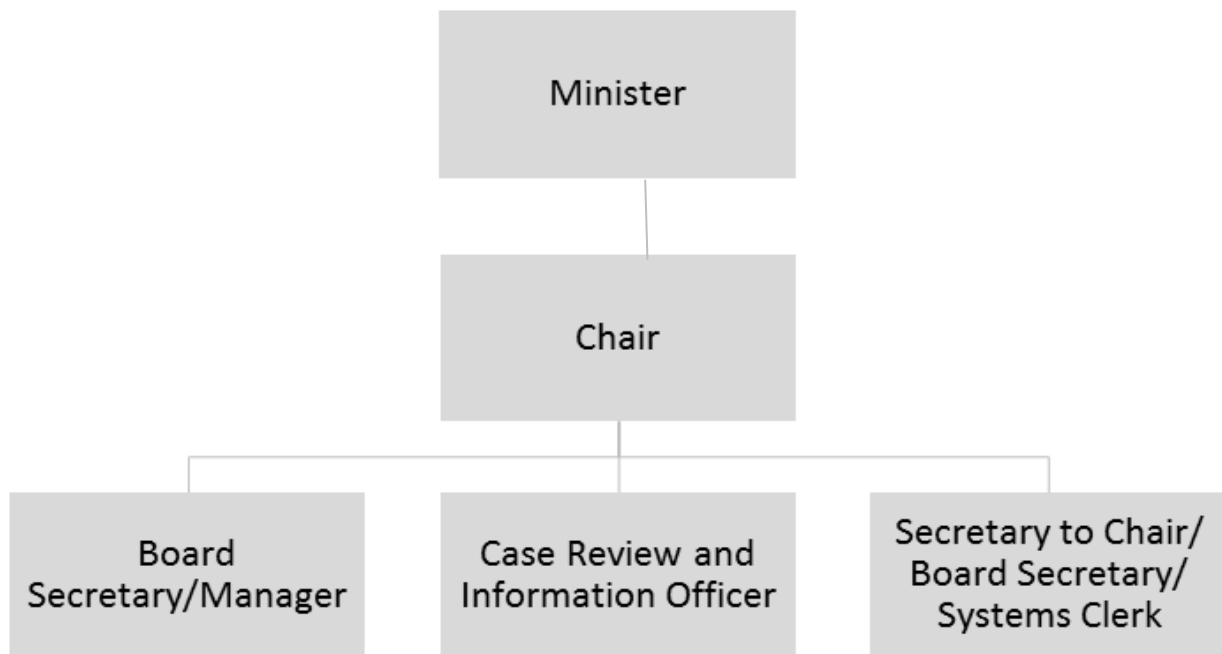
Hearings are scheduled as promptly as possible given the number of parties sometimes involved in a hearing. Decisions are issued promptly, usually within the two-week target that the Board has set for itself.

The Board is staffed entirely by contract and part-time staff yet continues to provide responsive service to our stakeholders and the people of Ontario in a timely fashion meeting all time deadlines set out in the Board's Business Plan. There were no recruitment activities performed. In all matters, the safety of the travelling public is paramount in the concerns and practices of the Board.

The inter-city bus and limousine industry plays a vital role in providing public transportation services to the citizens of Ontario and the Board will continue to ensure that it assists its stakeholders in every possible manner to ensure that the travelling public is well served.

Gilles Morin
Chair

Organizational Chart



Performance Measures

Outcome	Performance Measures	Achievements
Efficient customer service for applications and reviews.	Length of time to render decision after completion of written or oral hearing.	To date, all decisions have been made within 14 days of completion of hearing date.
To provide the highest quality service to the public; efficient response to public complaints.	Length of time to appropriately respond to complaints from the public concerning the quality of service received.	No complaints from the public received.
To provide the highest quality service to the public; efficient and timely response to any inquiry from the public.	Length of time to respond to any inquiry from the public.	All general inquiries responded to within 2 days.

Financial Information

<u>Revenues/Recoveries</u>	<u>2018/2019</u>	<u>2017/2018</u>
Filing Fees	\$44,391	\$28,125
Special Authorities	2,889	2,612
Costs Recovered for Hearings	9,510	4,175
U.S. Exchange	<u>1,394</u>	<u>958</u>
Total	<u>\$58,184</u>	<u>\$35,870</u>

Expenses

Salaries & Benefits	\$223,649	\$229,698
Travel and Communication	14,970	8,539
Services*	52,291	54,928
Equipment and Supplies	<u>10,186</u>	<u>7,743</u>
Total	<u>\$301,096</u>	<u>\$300,908</u>

Net Cost of Board's Operations	<u>\$242,912</u>	<u>\$265,038</u>
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* The Chair's remuneration is captured under Services. In 2018/19 the Chair's remuneration was \$49,300, and \$51,177 in 2017/18.

Note: Revenues/Recoveries are deposited directly into the Consolidated Revenue Fund.

Applications

Special Authorities Processed

Applicant's Home Base	
U.S.A.	18
Other Provinces	5
Total	23

Applications Received

Type/Class	PV	PVS	PVX	TOTAL
Permanent	41	12	29	82
Temporary	4	2	5	11
Transfer	7	3	12	22
Total	52	17	46	115

Legend:

PV	Public Vehicle Applications (Intra-Provincial Undertaking)
PVS	Public Vehicle (School Bus) Applications (Intra-Provincial Bus Undertaking) School Bus ONLY
PVX	Part I Motor Vehicle Transport Act Applications (Extra-Provincial Bus Undertaking)

Applications Received by Region

Outside Ontario **11**

Halifax	1
Québec	2
U.S.A.	8

Ontario Regional Boundaries

Central Region **61**

Durham	2
Halton	3
Muskoka	2
Peel	13
Simcoe	6
Toronto	30
York	5

Northern Region **2**

Cochrane	2
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Northwestern Region **7**

Rainy River	1
Thunder Bay	6

Eastern Region **19**

Hastings	2
Leeds & Grenville	1
Lennox and Addington	2
Ottawa	3
Peterborough	2
Prescott & Russell	4
Stormont, Dundas & Glengarry	5

Southwestern Region **15**

Brant	1
Essex	1
Huron	3
Lanark	3
Perth	1
Waterloo	4
Wellington	2

Hearings Adjudicated

Type of Hearing	Total
Written	1
Oral	4
Total	5

Summaries - Reasons for Decisions

The following summaries of applications for operating licences that were adjudicated by the Board in 2018 represent examples of the type of matters handled by the Board. The Board's complete decisions are available and may be requested from its office by telephone at 416-326-6732 or via email at: ohrb@ontario.ca.

Public Vehicles Act: **PVA**

Motor Vehicle Transport Act: **MVTA**

Scheduled Service: A bus transportation service for which an applicant or licensee files a timetable indicating the times of arrivals and departures.

Chartered Trip: A bus transportation service exclusively for a group of persons going on a trip.

Applicant: All Canadian Coach Travel Inc. **File No.:** 46227-F/G
o/a "Go By Bus Coach Travel"
Toronto, Ontario

Respondent: Hammond Transportation Limited ("Hammond")

Applications: Intra and extra-provincial applications to operate chartered trips for Sterling Coach Tours from points in the City of Ottawa, the Municipality of Chatham-Kent, the Regional Municipality of Waterloo, the Counties of Brant, Dufferin, Elgin, Essex, Frontenac, Hastings, Lambton, Leeds and Grenville, Middlesex, Northumberland, Oxford, Peterborough, Simcoe and Wellington.

Applicant's Case: All Canadian Coach Travel Inc. ("All Canadian") and Sterling Coach Tours ("Sterling") are affiliated companies under common control. All Canadian has intra and extra-provincial operating licences to operate chartered trips from Toronto, the Regional Municipalities of York, Durham, Peel, Halton, Niagara and the City of Hamilton. Sterling packages tours i.e. accommodation, meals and attractions for the general public and All Canadian has been Sterling's sole transportation provider for all the tours originating from points in All Canadian's operating licences. Sterling is currently attracting public requests for these tour packages from areas not authorized to be served by All Canadian. The current applications are specifically to meet the needs of the public from the expanded areas. In many instances, it would represent an additional pick-up of passengers on a

tour that has already been scheduled. The majority of the traveling public are retirees or close to retirement. The destinations offered, tour package components, pricing, tour escorts, etc. make the tours unique. Sterling wants All Canadian to provide the service which will generate a gross profit that will pay for all of their overheads.

Respondent's Case: Hammond operates chartered trips from the central Ontario area including Simcoe County. They are licenced under the Travel Industry Act and provide tours, excursions etc. in all class of vehicles within and outside of Ontario. They also provide daily unprofitable line runs to serve the public need i.e. hospitals, post-secondary education etc. Charter revenues subsidize the unprofitable line-runs. Another charter carrier would significantly impact their charter revenues.

Hammond alleged that the matter should have been dealt with at an oral hearing pursuant to the Public Vehicles Act to determine the statutory test of public need and convenience. The only support on file from Sterling an affiliate company was insufficient and referred a previous Board decision to justify their argument that more public support was mandatory and All Canadian failed to provide it and the applications should be dismissed.

Hammond stated that they serve tour companies in all areas that All Canadian wants to serve. This would reduce viable tours to the tour companies and also reduce their charter trip revenues.

Applicant's Reply to Hammond's Submissions

All Canadian stated that:

- the applications are primarily to allow them to pick-up additional passengers from additional areas of Sterling's tour packages;
- Hammond's only concern was service from Simcoe County. However, as the applications are only to operate chartered trips that are initiated, organized and advertised by Sterling there would be no economic impact on Hammond. The additional passengers from Simcoe County would make their tours more viable; and
- a written hearing would suffice to render the decision. The recent Board decision, Hanover Holiday Tours to grant the applications are similar. An oral hearing would not provide the Board with any new facts.

Decision

The request from Hammond to hold an oral hearing was denied as it had no merit based on case-law.

The Board considered the following factors to make its decision:

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- (a) the transportation needs of the public;
 - (b) the impact on existing carriers if the applications were granted;
and
 - (c) the applicant's ability to provide the service.

(a) The transportation needs of the public

The applications are primarily to meet the needs of Sterling, an affiliated company that organizes tour packages. All Canadian is the sole transportation provider for their tours. Sterling wants All Canadian to serve their needs from expanded areas that they are currently not permitted to serve. This would enhance ridership and guarantee successful tours. The tours are primarily supported by seniors, retirees etc.

Based on the evidence, the tours are very popular and in the Board's opinion, All Canadian established the public need and convenience to provide the transportation from the expanded areas applied for.

(b) The impact on existing carriers if the applications were granted

All Canadian's applications are similar to that of some currently licensed operators. The three conditions in the applications are very prohibitive as direct service to the general public is not authorized. Consequently, Hammond's charter operations will not be impacted as All Canadian is not authorized to serve their clients. Save and except for Hammond, no other licenced carriers have opposed the applications.

The Board concluded that Hammond will not be economically impacted if the applications are granted with the three prohibitions.

(c) Applicant's ability to provide the service

All Canadian has been in the passenger transportation business since 2005 offering intra and extra-provincial chartered trips from the Greater Toronto area. Their primary customer is Sterling, a tour operator and affiliate company. The applications are to allow Sterling to organize tours from a larger geographical area to ensure that the tours are a success i.e. large groups, decent pricing, new destinations etc.

Based on the evidence, All Canadian is ready, willing and able to meet the needs of Sterling.

The applications were granted.

Applicant:

**Emmanuel J. Roche
o/a “Venture Bus Lines”
Napanea, Ontario**

File No.: 47779/A

Respondents:

1. McCoy Travel Limited
2. Franklin Coach Lines Ltd.

Applications:

Intra and extra-provincial applications to transport passengers on chartered trips from points in the County of Lennox and Addington.

Applicant’s Case:

Emmanuel J. Roche o/a “Venture Bus Lines” (“Roche”) is dedicated to provide charter bus services to the Greater Napanea area. He is a retired Canadian Forces Military member in the transportation field with 27 years of operator experience. He intended to meet the needs of the community by providing a luxury mid-sized coach to transport large or small groups i.e. sporting teams, business groups and event travel. The mid-sized coach would reduce the fuel cost for space and size that is not always required. He expects to generate profits in the first year of operation and even more at the end of the second year. There was a definite need for a small charter business in the Napanea area as the nearest competition was in the Kingston and Belleville areas located almost 50 kilometres away.

Their proposed service would have no economic impact to the respondents who operate overnight tours which he would not do.

The applications were supported by four groups expressing a public need for the proposed service.

Respondents’ Case: McCoy Travel Limited (“McCoy”) stated that:

- they provide a safe reliable service in the Kingston, Napanea area in 20-25 and 29-33 passenger deluxe mid-sized coaches and 56-passenger, deluxe motor coaches. They serve the public need throughout Canada and the United States;
- they operate at 55% utilization on average;
- they saw no demand for another licensed carrier as they were only 39 kilometres away from Napanea. An additional carrier would have a detrimental impact on their operation i.e. purchase of new equipment, maintenance costs etc.;
- the public support on file was weak and the applications should be dismissed; and
- they were ready, willing and able to meet the transportation needs in the Napanea area.

Franklin Coach Lines (“Franklin”) stated that:

- they have served the Belleville and Kingston areas since 1951. They operate a diversified, modern fleet and transported groups to Canada and the U.S.A.;

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- they served the needs of specialty groups i.e. seniors, church, sports teams, travel agents, schools etc.;
 - the level of ridership had levelled out and making it economically not feasible to run the business; and
 - the increase in competition would economically impact their current operation as rising costs provided a challenge to maintain a profit.

Applicant's Reply to Respondents' Submissions

- the applications were a retirement endeavour;
- he did not expect the applications to be opposed as his fleet would only consist of 1 Class "B" vehicle with a maximum seating capacity of 35 passengers. The operation would be small in scope reflecting his retired status and the operation would not be a threat to the respondents. The aim was to provide a service in Napanee to service groups that was not currently available. He would offer a service at an affordable price as he would have a low overhead with his smaller vehicle;
- he would operate a part-time bus company to small groups with a cost-effective option. The respondents did not address their needs; and
- there was enough room in the market to support one and all. He would not venture into long hours or overnights tours and forward those demands to the respondents.

Decision:

The Board considered the following factors to determine if Roche had met the statutory test of public necessity and convenience:

- (a) the transportation needs of the public;
- (b) the impact on existing carriers if the applications were granted; and
- (c) the applicant's ability to provide the service.

(a) The transportation needs of the public

The applications were supported by four groups. They expressed a need for:

- higher end bussing, a step above a school service;
- monthly charter service for group fundraising in 20-30 passenger vehicles and the Roche bus would meet their needs. There was no comparable options in their area;
- a bi-weekly need for charter services from Napanee to transport groups attending meetings, seminars, etc. The Roche service would serve their needs immensely; and
- require a charter service originating in Napanee twice a week destined to Toronto. Roche's small luxury bus would be comfortable and make their lives easier and meet their needs.

In the Board's opinion, the public support expressed a need for a service that was not currently available in their area i.e. a small luxury bus, cost-effective etc. Roche had met the statutory test of public need and convenience to operate one Class "B" vehicle with a maximum seating capacity of 35 passengers exclusive of the driver.

(b) The impact on existing carriers if the application were granted

The onus is on the respondents to prove that granting the application would have an economic impact on their operations. The Board needed the hard facts to ascertain the potential loss.

The respondents alleged that:

- an additional carrier would impact their operations;
- ridership had levelled off. The market was saturated and not economically feasible; and
- revenues had been on the decline.

There were no hard facts to assess the quantum of any negative impact on their operations if the applications were granted. Roche stated that it would be a one Class "B" vehicle operate out of Lennox & Addington County. There were no hard facts to demonstrate a negative impact on the respondents' operations with respect to lost revenues and clients.

The Board concluded that there would be no economic impact on the respondents if the applications were granted.

(c) Applicant's ability to provide the service

Roche stated that:

- the service would be limited to one Class "B" vehicle;
- his operation would be local and this would eliminate added fuel costs and size of vehicles that is not always required;
- he would reach out to the general public and attempt to meet all their needs; and
- he was well aware of start-up costs of operations i.e. income and expenses.

In the Board's opinion the proposed service was viable and Roche was ready, willing and able to provide the service.

The applications were granted as applied for but restricted to the use of one Class "B" vehicle as defined in Regulation 982 under the Public Vehicle Act.

Applicant:

**2470566 Ontario Inc.
o/a “Kasper Mini-Bus”
Thunder Bay, Ontario**

File No.: 47657 H/I/J

Respondents:

1. Tisdale Bus Lines Ltd.
2. Kunkel Bus Lines Ltd.

Applications:

The applications were primarily to delete the restriction to the use of Class “D” vehicles only in their operating licences and also delete the restriction limiting the seating capacity of the vehicles and the proviso prohibiting chartered trips. They also applied to transport passengers on a scheduled service between the City of Owen Sound and the City of Guelph via Highway 6.

Applicant’s Case:

Kasper Mini-Bus planned to provide co-ordinated scheduled services and provide a through line-run to Marathon, Manitouwadge/White River combined with services from the east with Ontario Northland Transport Commission (“ONTC”). They would also combine with ONTC westbound via Thunder Bay and Winnipeg. They currently have the authority to serve north-western Ontario and also to Manitoba. The integration of services would enable them to provide a public service between Thunder Bay/Sioux Lookout/Dinorwic/Dryden etc.

They plan to integrate various bus-size models but not the traditional coach bus presently provided by other carriers i.e. Greyhound etc. They wanted no restrictions with respect to bus type/size on their operating licences. Their buses would run more efficiently and keep their operating costs down. Their vehicle sizes would be flexible depending on ridership counts and the needs of the public. Additional employment would also be created for day-to-day operations. The service would meet the needs of the large population in north-western Ontario. They would like their operating licenses to have “unlimited status” with no restrictions to serve all the areas applied for. Routes and time-tables were filed for the proposed service and public support in the form of surveys were also filed. In addition Kasper Mini-bus also applied for a new line-run between Owen Sound and Guelph. The service would facilitate the public i.e. medical appointments, shopping etc. in variable bus sizes but not the traditional coach bus-type provided by other carriers. Drivers would be hired locally and additional local employment would also be created. To meet the public need they would operate two daily runs.

Public support in the form of petitions were filed to express the public need for the service.

Respondents’ Case:

Tisdale Bus Lines Ltd. (“Tisdale”) stated that:

- they did not oppose the scheduled service application. They were only opposed to the charter service that would be

provided from points on the line-run. They provide chartered trips in the north-western of Ontario. They operate a fleet of 17 56-passenger coaches (Class “A”) and two 24 passenger mini-buses;

- if the applications were granted, Kasper Mini-Bus would operate all class of vehicles including Class “A”;
- they provide charter services for school and commercial events, casinos, spiritual gatherings etc. Their Class “A” vehicles provide an enhanced level of reliability and comfort for their customers;
- as the population was in decline in north-western Ontario, they were concerned that the market was not expected to grow. There was an adequate supply of service to meet the demands in the north-western region;
- there was significant competition from licenced carriers in the area;
- they have maintenance facilities in the Thunder Bay area, hired a local driver and also bring additional coaches from other areas when there is a demand; and
- granting the applications to allow for unrestricted class of vehicles would create direct competition and would impact their bottom line and force them to withdraw from the region. There was no public support for the use of Class “A” public vehicles in the applications. If the applications are granted, then they should be restricted to the use of Class “D” vehicles for all charter trips.

Kunkle Bus Lines Ltd. (“Kunkle”) stated that:

- they have operated in the Grey/Bruce area since 1953. They operate a fleet of 100 yellow school buses and 13 highway coaches.
- they serve the Owen Sound area with respect to charter trips and also provide a weekly line-run between Owen Sound and Gateway Casinos.
- they operate 10 school bus routes in the Owen Sound area and also provide charter services for private groups in these vehicles.
- revenue/ridership was in decline and licensing another operator in the area would be detrimental to their operation.

Applicant’s Reply to Respondents’ Submissions

Kasper Mini-Bus stated that:

- they are the carrier of choice for scheduled services and charters in north-western Ontario. They serve all customers including the First Nation clientele;
- Tisdale’s one-bus operation will not be impacted by the applications and they were unable to meet the needs and

demands of the communities;

- Tisdale provides no scheduled service in north-western Ontario and the local community cannot afford Tisdale's rates for the new coaches;
- they started with 1 bus and now have 25. The current economic environment is strong. They have hired 5 first Nation employees;
- apart from Tisdale, none of the currently listed carriers referred to by Tisdale have opposed the applications as they will not be economically impacted;
- they restricted the application by prohibiting the use of Class "A" public vehicles;
- as Kunkel provides no scheduled service between Owen Sound and Guelph, there will be no economic impact on their operations if the applications were granted for chartered trips.
- their school bus operation and the line-run to the Gateway Casinos will not be impacted; and
- they do not want to compete with Kunkel. They only want to operate the line-run to support the inter-community and tourism. They will also provide charters to groups accordingly.

Decision

The Board based its decision on two factors:

- (a) the transportation needs of the public and the applicant's ability to provide the service; and
- (b) the impact on existing carriers if the applications were granted.

(a) The transportation needs of the public and the applicant's ability to provide service

Kasper Mini-Bus operates six scheduled services in north-western Ontario. They also operate an extra-provincial licence between Sioux-Lookout, Dinorwic and the City of Winnipeg. All these services are in Class "D" public vehicles only.

The applications are to delete all restrictions on their operating licenses. In addition Kasper Mini-Bus wants to provide a new scheduled service between Owen Sound and Guelph in any class of vehicles.

They currently provide very essential services in north-western Ontario. They have the financial capacity, the public vehicles, and professional drivers to undertake the proposed operation. There was public support on file to meet the statutory test of public need and convenience.

In the Board's opinion, Kasper Mini-Bus has the ability to provide the service applied for and the applications met the needs and

convenience of the public. None of the respondents provide any of the scheduled service that Kasper Mini-Bus operates.

(b) The impact on existing carriers if the applications were granted

If the applications are approved as applied for, Kasper Mini-Bus would have the authority to operate chartered trips from all points served on the scheduled services pursuant to Regulation 982 under the Public Vehicles Act. This in turn may economically impact the respondent's businesses with respect to charter operations. Bearing this in mind, Kasper Mini-Bus amended the application to prohibit them from using Class "A" public vehicles in all their services.

As the respondents primarily use Class "A" public vehicles, the Board concluded that there would be no economic impact on the respondent's operations if the applications were granted.

The applications were granted as applied for with the restriction that the use of Class "A" public vehicles was prohibited.

Applicant: **Greyhound Canada Transportation ULC File No.: 47760-RE(1)**
Burlington, Ontario

Respondent: Sels Inc.

Application: The application pursuant to Sections 10 and 11 of the Public Vehicles Act by Greyhound Canada Transportation ULC ("Greyhound") alleging that Sels Inc. ("Sels") was operating in contravention of the Public Vehicle Act i.e. they were operating a public vehicle without an operating licence or in contravention of the terms and conditions of their operating licences.

Under Section 10, the Board has the power to suspend or cancel the operating licence or impose temporary or permanent conditions on the licences. Under Section 11, the Board has the power to order the service that caused the contravention to stop and also order that the person who operated the public vehicle that constituted the contravention to stop. The Board can also order that the operators operating licence expire on a specific day or add terms and conditions to resolve any ambiguity or uncertainty in the operating licence.

Greyhound stated that:

- Sels was operating an illegal ride-share service between Ottawa and Toronto which was economically impacting their operation;
- they contacted Sels to advise them that the transportation service they were providing was illegal and if they continued to provide the service, they would file an application under

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- Sections 10 and 11 of the Public Vehicle Act with the Board.
- Sels then agreed to cease the illegal operations and the website for bookings was de-activated;
 - Greyhound however stated that an internet search revealed that Sels was still taking bookings on the phone and also advertising on Facebook, Craig's List and Kijiji;
 - Sels also applied for a public vehicle operating licence to provide charter services from Ottawa and an operating licence was issued on April 3, 2018. However, Sels is continuing to provide a scheduled service which they are not authorized to provide; and
 - Greyhound then hired the services of Protect Security Ltd. ("Protect") to investigate and verify if the service was in contravention of the Public Vehicle Act or Highway Traffic Act.

Protect reported that:

- scheduled services were being advertised by Sels offering two rides daily between Ottawa, Kingston and Toronto and had "consistent negative reviews on the internet citing safety concerns, customer service, lack of organization and racial discrimination";
- their investigator travelled with Sels on February 9/10, 2018 between Toronto and Ottawa and stated that:
 - Sels was operating a scheduled service.
 - There were several instances of distracted driving and driving at speeds of 145 km/hour.
- the driver advised them that they drive between 8 and 14 hours per day and drove in adverse weather conditions resulting in the vehicle slipping and spinning;
- there were several equipment defects; and
- driving while using a handheld communication device.

In summary, Protect alleged that Sels was operating an unauthorized service and the service was incomplete and unsafe.

Greyhound asserted that the Board should cancel Sels operating licence and order that the operation of the transportation service in the manner that caused the contravention stop. They also asked the Board to award them costs in the amount of \$10,000.00 to cover all costs to file the application.

Sels, in response:

- apologized for unknowingly breaching the Public Vehicle Act and terminated the service as soon as they were made aware of the contravention;
- they operated a subcontract base medical and computer parts courier service business, transporting medical needs to seniors and computer parts in Ottawa and Toronto. During the

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- journey, they offer a ride-share facility to students and seniors of the Tamil Community who paid to cover the fuel expenses;
 - they thought that carpooling and ride-sharing was legal until they were advised by Greyhound and stopped the service; and
 - they have an operating licence from the Board to provide chartered trips and they assured the Board they would not breach the law again and requested to be forgiven for their wrong doings and drop the charges.

Decision:

The Board stated that:

- the facts of the matter were clear on the face of it. Greyhound and Protect filed evidence to prove that Sels was providing a passenger transportation service that was in contravention of the Public Vehicle Act. Sels in response stated that they had unknowingly breached the Public Vehicle Act and assured the Board that they had terminated the service as soon as they became aware of their error;
- Sels then obtained an operating licence to provide “chartered trips” from Toronto, Ottawa and the Regional Municipalities of Peel, York and Durham, they then concluded that they were authorized to provide their current service;
- the industry wide definition of a chartered trip is a group of passengers travelling together to a specific common destination such as a sports event, a theatre etc. The group then returns to the point of origin after the event is over; and
- Scheduled Service is defined as a “service for which the licensee files a timetable with the Ministry”. Sels did publish a schedule of departures and arrivals, single one-way fares and there was no exclusivity to the group. The Board concluded that Sels was providing a scheduled service and was operating in contravention of the Public Vehicle Act.

The Board then ordered that the operation of the transportation service that caused the contravention stop immediately.

The Board may in its discretion, fix the costs of and incidental to any proceeding. Greyhound did advise Sels on three occasions about their unauthorized service and that Sels had agreed to immediately stop operating the service but continued to operate illegally. As a result, Greyhound had to hire the services of a lawyer and a security company to undertake their case. They rightfully deserved the costs they were seeking and the Board ordered Sels to pay Greyhound the costs they were seeking. A copy of the decision was sent to the enforcement branch of the Ministry of Transportation for their appropriate action.

Applicant:

**1911839 Ontario Ltd.
o/a “Driverseat Barrie”
Midhurst, Ontario**

File No.: 47777

Respondents:

1. Allandale School Transit Limited (“Allandale”)
2. Barrie Executive Transportation & Limousine Inc. (“Barrie Executive”)
3. Hammond Transportation Limited (“Hammond”)

Application:

An intra-provincial application to transport passengers on a chartered trip from points in the County of Simcoe in Class “D” vehicles, each having a maximum seating capacity of twelve passengers exclusive of the driver.

Applicant’s Case:

Driverseat is a vehicle relocation and private chauffeur business founded in 2012. They service the following four categories:

1. **Designated Driver** – coachmen work in teams of 2. Customers who have consumed alcohol are driven home in their own vehicle by one of the drivers. The other driver follows behind in a “chase” car to pick-up the first.
2. **Assisted Transport** – seniors who still have a vehicle but have either lost their licence or are simply uncomfortable driving can hire a coachman by the hour, the month, or the year.
3. **Airport Chauffeur** – a coachman will drive the customer to the airport in the comfort of their own vehicle. The vehicle is then returned back to the customer’s house where it stays until the customer’s return flight.
4. **Vehicle Chauffeur** – vehicle relocation, fleet management and car care. Coachmen are relocating vehicles when people move, need oil changes, or when companies with large fleets need assistance with fleet maintenance.

Bearing this in mind, Driverseat had a foresight to transport the vulnerable sector on chartered trips. The current application was to meet the needs of the public for charter services. The service would be dedicated to specialty tours, weddings, corporate functions, the vulnerable elderly sector i.e. retirement homes, nursing homes and hotels, motels and conference centres. They also will provide charters to the airports, train stations, bus stations etc. They are involved in a lot of charities and also meet with municipalities to create a niche market.

In their opinion, Simcoe County was growing at a rapid pace, the area was under-serviced, there were multiple retirement and nursing homes under construction and the trend would continue. There were significant growth opportunities for Driverseat’s endeavours. They expected to create employment and also generate a net profit in the first year of operation. They would offer an alternate mode of

transportation and would meet consumer demand. Through the use of technology/network they would achieve cost savings and efficiencies. They intended to go for a market that was under-served and there would be no economic impact on the respondents. They would serve an available market that was currently not being serviced.

Public Evidence:

Thirteen (13) witnesses testified in support of the application. Their evidence can be summarized as follows:

- a need to transport employees operating a three-shift operation to or from work where there is no other means to get to the job site;
- a club that ventures on trips for different events subject to the immediate need and will use another carrier for different events;
- a travel agency that will use Driverseat, due to its flexibility but will continue to use Allandale based on the service required;
- a lawyer for the County of Simcoe (1,500 employees) would use Driverseat to theatres, rotaries and take public home after parties, etc.;
- manager of used car company would use Driverseat to transport passengers home if involved in a vehicle breakdown;
- a fundraiser would use Driverseat to galas as she did not drive which would be of great benefits;
- a storage facility needs employee transportation to airports, etc.;
- a campground needs transportation for tourists, the elderly/families, etc.;
- an organization that needs van transportation to and from Christmas parties at hotels, etc. consider Driverseat useful; will use limos for personal bookings;
- a financial administrator stated that there was a huge need for Driverseat to transport their boards on rendezvous in smaller vehicles;
- a representative from the Town of Innisfil emphasized the population growth and was interested in all options with respect to passengers' options; and
- a representative of Simcoe County Board of Education who is a charity funder. They will use Driverseat in bigger vans. Their groups were relatively small.

Respondent's Cases Hammond

Hammond operated all class of vehicles and have served Simcoe County since 1971. They are involved in marketing, advertising, attend rotary club meetings, annual food drive etc. They could provide all Driverseat's demands and their rates were reasonable. They have

had a decrease in revenues in the last three years. They have a lot of employees and overheads. Granting Driverseat an operating licence would result in further losses.

Barrie Executive

Barrie Executive operates a fleet of vehicles in small vehicles and extending to party buses with a seating capacity of 29 passengers. They transport groups to concerts/U.S.A. football matches etc. They have a large indoor office area, 14 chauffeurs, dispatch etc. They also offer an airport service. Currently they said the market was saturated and they were concerned of Driverseat's growth. They were voted the top limousine business. They have had a 24% drop in revenues. Fuel and insurance costs had also added to the cost of running the business and more competition would result in further losses to their business.

Allandale

Allandale only provide an airport service in vans. They have 70 employees and also 10 staff. They operate 19 vans and there has been a decrease in revenues. Airport costs were rising though insurance costs were reasonable. Granting the application would economically impact their operation.

Decision:

The Board considered the following factors to make its decision:

- (a) the transportation needs of the public;
- (b) the impact on existing carriers if the application is granted; and
- (c) the applicant's ability to provide the service.

(a) The transportation needs of the public

Based on the public evidence, there was a demand for a public service that was not currently available i.e. to or from a workplace, parties, fundraisers, galas, airports etc. Under the circumstances, the Board determined that there was a need for Driverseat's service. The public evidence was not overwhelming but there was a demand for an alternate mode of transportation that Driverseat was establishing. There would be more employment and more flexibility.

The Board concluded that Driverseat had established a public need for their proposed services.

(b) The impact on existing carriers if the application is granted

The Board stated that "A respondent is defined as an interested person" in the Public Vehicles Act, i.e. a person who has an economic interest in the outcome of a matter that is within the Board's jurisdiction.

The application is to transport passengers on a “chartered trip” from points in the County of Simcoe. In order to oppose the application, a licensee has to have an operating licence that authorizes them to provide chartered trips from points in the County of Simcoe in Class “D” vehicles.

Allandale

A careful study of Allandale’s operating licence allows them to transport passengers between points in Simcoe County, etc. and different airports with conditions attached. One of the conditions states: “there will be no charter trip privileges permitted.”

Yes, they can continue to operate their door-to-door service. However, they are not authorized to provide chartered trips from points in the County of Simcoe.

As a result, they do not meet the definition of “interested person” and cannot be a party in this proceeding. Their evidence will therefore not be taken into consideration when making this decision.

Barrie Executive

Driverseat if licensed would only operate vehicles with a maximum seating capacity of 12 passengers exclusive of the driver. The Board stated that Barrie Executive had only three vehicles of that size in their fleet catering to a very specific clientele requiring the luxury vehicles. Driverseat’s clientele do not use the luxury service. The Board concluded that there would be no economic impact on Barrie Executive if the application was granted.

Hammond

Hammond operated five public vehicles with a maximum seating capacity of 12 passenger exclusive of the driver in their entire operation of Simcoe/Muskoka etc. In the Board’s opinion, Driverseat’s proposed operation is going to cater to a market that will not impact Hammond’s operation economically.

(c) The applicant’s ability to provide the service

The Board stated that:

“Since 2012, Driverseat has been providing four (4) services:

1. Designated Driver
2. Assisted Transport
3. Airport Chauffeur
4. Vehicle Chauffer

These services have been successful which led to an application for a public vehicle operating licence to meet the needs of the public demand. They propose to provide charter trips for specialty tours, weddings, corporate clients and other special events as well as for the vulnerable sector (elderly, physical and cognitive disabilities, etc).

They would also provide charters to airports/train stations, etc. All this proposed service is in vehicles with a maximum seating capacity of twelve (12) passengers. They filed an operating statement that detailed all their revenues/expenses/cost of goods/net profit in the first year of operation to prove that the proposed service is viable.

In the Board's opinion, Driverseat is ready, willing and able to provide the service applied for.

The application was granted.