

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
SFMTA HEARING SECTION

**SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY,**

vs.

STATEMENT OF DECISION

**TWIN PEAKS
TRANSPORTATION CO.**
Respondent

I. INTRODUCTION

This case came on for administrative hearing pursuant to a Complaint by the San Francisco Municipal Transportation Agency (“SFMTA”) after the Complaint was sent to respondent Twin Peaks Transportation Co. (“Twin Peaks”) on or about October 20, 2020, based upon the SFMTA’s Notice of Nonrenewal, dated September 28, 2020. The SFMTA Complaint alleges that Twin Peaks, which had been the corporate holder of two “Pre-K” medallions (medallion numbers 664 and 665), is now listed as a “dissolved” corporation as of the date of November 16, 2020. As dissolved, the SFMTA argues that the shares of Twin Peaks cannot be legally transferred to former Twin Peaks president, Michael Spain, and the formerly held medallions cannot legally be transferred to Mr. Spain as an individual. On that basis the SFMTA argues that medallion numbers 664 and 665 may not be renewed.

Following that notice and the subsequent Complaint, a video-conference hearing was scheduled for Twin Peaks by this Hearing Section for July 8, 2021, under the provisions of Article 1100 of the SFMTA’s Transportation Code. That Article governs the rights granted to taxi medallion holders in San Francisco, as well as how hearings related to those rights are administered.

On July 8, 2021, Twin Peaks’ former president, Michael Spain, appeared via video at the time of this hearing. SFMTA Taxi and Accessibility manager Philip Cranna and analyst Danny Yeung, also appeared by video, along with the undersigned administrative hearing officer, and at that time testimony from each of the parties was received into evidence.

The terms “permit”, “operating permit”, and “taxi permit” are interchangeable for the purpose of this Decision.

II. APPLICABLE LAW

Under the provisions of Article 1100 of the Transportation Code, the following statutory authority forms the relevant basis for this decision.

Relevant to this case are these Article 1100 provisions:

- TC §1104(d)(1), regarding Annual Filing Required for Renewal;
- TC §1105(a)(3), regarding permits as privilege, not property of the driver;
- TC §1105(a)(6), involving compliance with laws and regulations;
- TC §1105(a)(3), regarding the duration of permits;
- TC §1109(c)(1), regarding the full-time driving requirement;
- TC §1109(d)(1), regarding Permits Void on transfer or sale;

Also relevant to this case are these Proposition K provisions:

- Prop K §1(a), regarding ownership of taxi permit (medallion);
- Prop K §2(d), regarding permits are only issued to a natural person;
- Prop K §4(b), declaring the 60-day period to renew Pre-K permits;
- Prop K §5(a), regarding Cooperation Permit sale or transfer;

III. TESTIMONY

A. SFMTA Testimony and Evidence Presented: Philip Cranna and Danny Yeung:

Philip Cranna, an Enforcement and Legal Affairs Manager in the SFMTA's Taxi Services, argues that California Secretary of State official public records regarding the corporate status of Twin Peaks reflects that on or about November 16, 2020, the corporation was voluntarily dissolved at the request of its president, Michael Spain. Mr. Cranna argues that the provisions of the Transportation Code require that upon the dissolution of a corporation holding "Pre-K" medallions, the medallions revert to the SFMTA just as if a "Pre-K" holder of a medallion was taken by death. Mr. Cranna contends that there are no provisions in the TC which would allow the transfer of medallions from a dissolved corporation to an individual.

Mr. Cranna also argues that the provisions of the TC also do not authorize changes in medallion ownership where more than 10% of corporate stock is sold or transferred as restricted by TC § 1109(d). If Respondent Twin Peaks intends (or had intended) that all of its shares be transferred to Mr. Spain, such an intended transfer could not have been authorized by the TC, and specifically, due to TC § 1105(a)(4), which notes that no permits issued by Article 1100 may be transferred except by the operation of law—and there is no provision that would allow such a transfer under these circumstances.

Danny Yeung, an administrative analyst in the SFMTA's Taxi Services, testified to the origin

and reliability of the exhibits offered by Taxi Services at the hearing. The exhibits pertaining to Twin Peaks include the following:

- An Annual Sworn Statement dated 4/29/20, including a CA Secretary of State Statement of Information regarding Twin Peaks (Exh. A)
- A SFPD Taxi Detail that denied the transfer of 2,000 shares of stock held by decedent Real, dated September 9, 1999 (Exh. B)
- A Board of Appeals Notice of Decision and Order concurring a SF Police Commission order of May 1, 1997 (Exh. C)
- A letter of Michael Spain, dated October 11, 2020 (Exh. D)
- A Declaration of Quentin Kopp, dated March 18, 1998 (Exh. E)
- A CA Secretary of State Certificate of Dissolution (re Twin Peaks), November 16, 2020

B. Respondent Twin Peaks Transportation Co.

In response to the SFMTA's Notice of Nonrenewal and Complaint, and in behalf of Respondent Twin Peaks, Mr. Spain argues that in November of 2020 he elected to dissolve Twin Peaks because of the ongoing \$800 California filing fee that had been due to preserve the corporate status of Twin Peaks. Inasmuch as he was no longer receiving any compensation from taxi drivers for the use of his two medallions, he was unable to justify spending \$800 to maintain the corporate status of Twin Peaks. He does not dispute that Twin Peaks was dissolved as of the November 2020 date as certified by the State of California.

Mr. Spain also argues, however, that the SFMTA's Taxi Services had been aware of the corporate status of Twin Peaks for many years, and had apparently accepted the ongoing corporate status of Twin Peaks despite the death of Mr. Reams, (who's shares were never actually transferred to Mr. Spain after Mr. Reams' death in 1995). He asserts that he had been filing the same 1095 forms with Taxi Services "every year without a problem," and that no shares of Twin Peaks stock had ever been transferred. (Exh. D.) Mr. Spain also testified at the hearing that over the years he has become aware of many transfers of medallions were made that did not always comply with strict TC provisions. He contends that the transfers of his medallions should be authorized because the "null and void" language of TC § 1109(d)(1) does not treat all medallion holders fairly.

In Twin Peaks' sworn statement of 2020, filed in April of 2020, Mr. Spain notes in one section that Twin Peaks is the medallion holder of medallions 664 and 665. But this statement also specifically lists Michael Spain as the medallion holder, as least as of April 29, 2020. It is not clear whether this document was intended by Mr. Spain as evidence of his intended transfer of the Twin Peaks medallions to himself—at least by that date. (See Exh. A.)

Generally, Mr. Spain testifies that he paid valuable consideration for the medallions at issue in this case, and that when the current litigation between the SFMTA and the Federal Credit Union is finally concluded, he would hope that by being allowed to retain the Twin Peaks medallions, he would be entitled to some amount of residual monetary value in their transfer to other owners or drivers.

IV. FINDINGS

A. Proposition K (Prop K) – June 6, 1978

Proposition K was signed by Senator Quintin Kopp and adopted by the City and County of San Francisco on 06/06/1978. Among the principle applicable changes to the Taxi industry, Prop K specifies:

- 1) Pre-K medallions are identified as medallion/taxi permits held by individuals who received taxi permits prior to the effective date of Proposition K (06/06/1978).
- 2) No Permit shall be issued except to a natural person and in no case to any business, firm, partnership or corporation (Section 2 (D)).
- 3) All persons, businesses, firms, partnerships corporation or other entities who possess outstanding permits to operate a motor vehicle for hire on the effect date of this section must surrender and exchange any such permit for new permits within 60 days of the effective date of this section (Section 4 (B)).
- 4) If any permittee is a corporation, any sale or other transfer of 10 percent or more of the stock ownership or assets of the permittee, resulting from any transaction or series of transaction and computed on a cumulative basis, will be deemed to be a sale or transfer and the permit therefore shall be null and void, unless approved by the Police Commission in conformity with the requirements of these Ordinance (Section 5(A)).

B. Medallions 664 and 665 are “Pre-K” medallions

According to the Complaint, the Notice and the evidence of record, the medallions at issue in this case are “Pre-K” medallions and subject to the rights and limitations of “Pre-K” medallions as identified in Article 1100 of the Transportation Code.

C. Status of the Twin Peaks’ Medallions

1. The updated filings of Twin Peaks, as reflected in exhibit A, may support a tacit acceptance by Taxi Services of Twin Peaks’ medallions as being held and used by Michael Spain, as president of Twin Peaks. But the record reflects that there was never any SFMTA-authorized transfer of the medallions to Michael Spain, as an individual, and distinct from Michael Spain as president of Twin Peaks. Had any such transfer ever existed or been attempted, it would have had to have been authorized or approved by SFMTA Taxi Services in order to be deemed a legal transfer. (See TC § 1109(d)(1). There is no evidence in the record that such a transfer approval ever occurred.

Accordingly, and based upon the record in this case, Michael Spain did not become the legal holder of medallions 664 and 665 as a result of any legal transfer of the Twin Peaks medallions to him at any time in the past. There is no provision in the Transportation Code that would allow for such a transfer of “Pre-K” medallions under these circumstances. Any intended transfer of Twin Peaks medallions to Mr. Spain would have required a transfer of 100% of Twin Peaks’

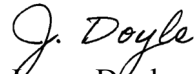
stock, which would have been a clear violation of the restrictions embedded in TC § 1109(d)(1).

2. More importantly, on November 16, 2020, Twin Peaks as a corporate entity was formerly dissolved, and at Mr. Spain's specific request. As of that date, Twin Peaks, which had been the sole holder of medallions 664 and 665, ceased to have any claim to these medallions. With the dissolution of Twin Peaks, the two medallions at issue here *could not be renewed* because the entity tasked with renewing them no longer existed. Like medallions affected by the provisions of TC § 1109 (f)(2)(B), which are returned to the SFMTA with the death of a Joint Tenant, a medallion held by a corporation at the time of its dissolution, must immediately revert to the SFMTA.

VI ORDER

By reason of the Findings stated above, the SFMTA's Notice of Nonrenewal in this matter is granted as to medallions 664 and 665. These medallions are effectively revoked and any right of their use or possession must revert to the SFMTA.

Dated this 30th day of August, 2021



James Doyle
Neutral Hearing Officer
SFMTA Hearing Section

RIGHT OF REVIEW

Under the provisions of the San Francisco Transportation Code, a decision of a hearing officer is a final administrative decision. Any party or entity adversely affected by this decision may seek review of the decision by filing an Appeal in accordance with the provisions and the 15-day timeline set forth in the rules provided by the San Francisco Board of Appeals.