



Melvin Justice  
Bauer's Intelligent Transportation, Inc.  
Pier 50  
San Francisco, CA 94158  
March 30th, 2016

## NOTICE OF PERMIT DENIAL

Dear Mr. Justice,

The San Francisco Municipal Transportation Agency (SFMTA) has reviewed the permit application submitted by Bauer's Intelligent Transportation, Inc. (Bauer's) for the April 1, 2016-March 31, 2017 Commuter Shuttle Program. The SFMTA has also considered the additional information submitted to SFMTA by Bauer's on March 24, 2016. For the reasons set forth below, the SFMTA has determined that Bauer's application does not meet the requirements of the San Francisco Transportation Code (Transportation Code). Accordingly, the SFMTA denies Bauer's commuter shuttle permit application. The SFMTA's decision is based on the following factors:

1. *Repeated Failure to Comply with Applicable Traffic Laws:*

The Commuter Shuttle Permit Terms and Conditions require commuter shuttle operators to comply with all applicable traffic laws (San Francisco Transportation Code Section 914(h)(3).) Bauer's IT has repeatedly failed to comply with this requirement during its participation in the Commuter Shuttle Pilot program.

Between August 2015 and January 2016, the last six months of the Commuter Shuttle Pilot, the SFMTA received 142 complaints regarding commuter shuttles from members of the public for which the commuter shuttle operator was identifiable. A disproportionate number of these complaints concerned Bauer's operations. While Bauer's service comprises only about 10% of citywide commuter shuttle stop events in January 2016, 48 complaints or about 34%, related to Bauer's vehicles.

Nearly half of all complaints about Bauer's operations concerned Bauer's vehicles travelling on weight-restricted streets, a violation of Section 7.2.77 of the San Francisco Transportation Code. Bauer's own GPS data feed provided to the SFMTA confirms that its vehicles operate regularly on weight-restricted streets. The second- and third-largest categories of complaints about Bauer's shuttle operations concerned shuttle vehicles without placards loading and unloading in designated stop locations within the commuter shuttle network and Bauer's shuttles stopping in unauthorized locations, including Muni stops ("red zones") that are not part of the network of designated stop locations. These activities are prohibited under Section 914(h) of the San Francisco Transportation Code.

Despite repeated communications about these complaints between SFMTA staff and Bauer's representatives, the number of complaints about Bauer's vehicles has not decreased over time and the correspondence in SFMTA's files does not demonstrate that Bauer's has made

significant good faith efforts to address these complaints. Many complaints were recurring, with Bauer's vehicles reported travelling on the same weight-restricted streets repeatedly over the course of several months without any apparent action on the part of Bauer's to change their routes. While the number of complaints varied widely throughout the last six months of the Pilot, during January 2016, the final month of the pilot, SFMTA received the highest number of complaints about Bauer's operations.

Bauer's continued violations of these requirements has contributed to unacceptable traffic congestion on weight restricted streets and impeded safe and efficient Muni operations by blocking access to Muni stops. These results are inconsistent with the goals and purpose of the commuter shuttle program.

2. *Inadequate Service Disruption Prevention Plan:*

In accordance with Section 914(d)(9)(A) of the Transportation Code, shuttle permit applicants are required to submit a Service Disruption Prevention Plan that includes a description of steps taken to avoid potential service disruptions with the purpose of maintaining "consistent and efficient service." The permittee also agrees to inform the SFMTA of any labor dispute in which the applicant is involved that has the potential to cause a disruption of service. (See Transportation Code Section 914(d)(9)(D).) As described in Board of Supervisor's Resolution 96-15, the purpose of accurately informing the City of ongoing labor disputes and having a plan to deal with such issues stems from the fact that a labor dispute involving a commuter shuttle service "will likely result in the disruption of orderly operation of SFMTA buses, namely impeding the timely arrival and departure of SFMTA buses at Designated [commuter shuttle] Stops, the disruption of traffic around Designated Stops, and the impedence of rider access to board or alight SFMTA buses at Designated Stops . . . ." Since the Commuter Shuttle Program involves the conditional sharing of access to Designated Stops by both the City's public mass transit system and permitted private commuter shuttles, a primary concern of SFMTA is that the operation of the shuttles not impede the expedient and safe access by Muni buses to the stops.

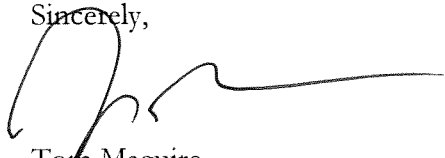
Bauer's application failed to include a sufficient or accurate service disruption plan and failed to include descriptions of its current labor disputes. Bauer's Service Disruption Prevention Plan outlines a dispute with the International Brotherhood of Teamsters over the unionization of its drivers but does not detail the National Labor Relations Board proceedings related to the case. The plan states that "Bauer's does not know of any labor dispute that might disrupt services." However, service disruption and safety issues have already occurred. For example, on the morning of March 22<sup>nd</sup>, 2016, protestors surrounded Bauer's vehicles at the 8<sup>th</sup> Street & Market Street shared commuter shuttle Muni zone and prevented them from leaving. This blocked the zone for approximately 30 minutes during the morning peak period. This disrupted Muni and other commuter shuttle service. At least one Muni vehicle was prevented from accessing the curb, instead unloading passengers in the middle of the street. Other commuter shuttles were unable to pull all the way to the curb and loaded passengers while blocking the bike lane. This action disrupted transportation and created safety hazards.

This incident highlights that Bauer's has not demonstrated that it is able to avoid service disruptions or to manage them in an acceptable way, including notice to the SFMTA. Granting a commuter shuttle permit to Bauer's under these circumstances could lead to further

disruptions in Muni service, blockage of bicycle and travel lanes, and safety hazards for San Francisco transit riders and road users.

Accordingly, Bauer's application for a commuter shuttle permit is denied. As set forth in the Transportation Code, Bauer's may request review of the SFMTA's decision to deny this permit. Applicants seeking review of a permit denial will have 15 business days from the date of notice of denial to request review of the decision by a hearing officer.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Maguire', with a long horizontal flourish extending to the right.

Tom Maguire

Director of Sustainable Streets, San Francisco Municipal Transportation Agency



