

Application Decision

Other PDV – New

Application No.	7992-19
Applicant & Application Summary	Joyage Tours Corporation <i>Trade Name: Joyage Tours</i> New PDVA (Other PDV) <ul style="list-style-type: none">• <i>New Special Authorization: Passenger Directed Vehicle Authorization (PDVA)</i>• <i>Service Limitation: Private and group, sightseeing, educational and special event tours</i>• <i>Originating Area: Metro Vancouver Regional District, Victoria and Whistler</i>• <i>Fleet Maximum: 3 vehicles (driver plus 3-11 passengers)</i>• <i>Rates: Individual rates</i>
Applicant Information	<i>Current Passenger Transportation Licence: None.</i> <i>Principal:</i> <ul style="list-style-type: none">• Natalie Shum <i>Office: 117-9050 Highland Court, Burnaby, B.C., V5A 0E3.</i>
Publication of Application	August 11, 2021
Submissions	None
	This application is refused.
Decision Date	January 4, 2022
Panel Chair	Carmela Allevato

I. Introduction

The *Passenger Transportation Act* (the Act) regulates the licensing and operation of commercial passenger transportation vehicles and services in BC. Under the Act, the Passenger Transportation Board (Board) makes licensing decisions on applications relating to taxis, limousines and other small shuttle and tour vehicles. The operation of these vehicles requires a “passenger directed vehicle authorization.”

The Board has the authority to consider and approve applications for new licenses as well as applications from existing licensees to change terms and conditions of their licences (including the addition of vehicles to their fleet), change rates to be charged for a service and request Temporary Operating Permits (TOPs). Since September 2019, the Board's mandate has included licensing decisions relating to Transportation Network Services, also known as ride-hailing services.

II. Jurisdiction

This application is made under the *Passenger Transportation Act* (the Act). As required by section 26(1) of the Act, the Registrar of Passenger Transportation forwarded the application to the Board. Section 26(2) of the Act requires the Board to publish the fact and nature of the application, and section 27(3) requires it to consider applications and any written submissions it receives as result of publication.

Section 28(1) governs the Board's consideration of applications as follows:

28(1) The board may approve, in whole or in part, an application forwarded to it under section 26(1) after considering whether:

- (a) there is a public need for the service the applicant proposes 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.

Section 28(2) states that the Board must, if it approves an application, specify the special authorization that should be included in the licence, if issued by the Registrar. Section 28(3) states that the Board may establish terms and conditions that apply to a special authorization included in a licence.

Section 7(1)(f) of the Act authorizes the Board to approve or set, for the purpose of establishing just and uniform charges, rates to be charged by the operator.

III. Application

(1) Applicant

The applicant, Joyage Tours Corporation (“Joyage”), was formed October 15, 2018 when Loli Senpai Trading Corporation, a BC registered corporation, changed its name to Joyage Tours Corporation. The predecessor company was registered in 2010. Natalie Shum is the sole director and CEO of the company.

(2) Applicant’s Request & Explanation

The applicant seeks authorization to operate three sports utility vehicles that will provide private, customized small sightseeing tours to customers from Honk Kong, China and Japan and tours to BC campuses to prospective international students. The Business Plan elaborates that the vehicles will carry no more than 5 passengers in addition to the driver. However, at other times the vehicles are described as transporting 6 passengers and a driver.

The applicant provided the following public explanation that was published in the Application Summary:

Joyage is a tour operator. Our business focuses on providing private day tours to customers for a set price with a set duration and pre-determined itineraries

(3) Overview of Applicant Materials

The applicant submitted application forms and other materials that meet Board application requirements. The applicant’s materials include the following:

- Business plan and financial statements with details about the planned operation including the qualifications of its key personnel, and a 3 year financial forecast;
- Financial statements, and
- Resume of Natalie Shum.

(4) Submissions

The Board did not receive submissions on this application.

(5) Procedural Matters

This application was originally filed at the end of January, 2020. In March 2020 the state of emergency was declared due to COVID-19 and the Board asked applicants whether they wished to proceed with their application or hold them in abeyance. The applicant chose to put the application on hold. The Board contacted the applicant in June 2021 and again in July 2021 regarding the status of their application. The applicant responded on August 8, 2021 that it wished to proceed with its application and provided the Board with updated information including an updated business plan and financial information.

The Board published the application on August 11, 2021 and submissions closed on August 23, 2021. As stated above, the Board did not receive submissions on this application.

On November 25, 2021 the Board sent an investigation letter to the applicant seeking certain clarifications and additional financial information. The applicant provided its response on November 30, 2021.

Section 17 of the Act allows the Board to conduct written, electronic or oral hearings, or any combination as the Board, in its sole discretion, considers appropriate. This application is being conducted by way of a written hearing.

IV. Analysis and Findings

Section 28(1) of the Act sets out the factors the Board must consider with respect to this application. In coming to its conclusion in this application the Board has considered each of the factors and the evidence and submissions provided by the applicant.

(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.

The applicant has a National Safety Code rating of Satisfactory Unaudited which is normal for new entrants into the passenger transportation business. The disclosure forms and criminal record information were provided and they do not raise any concerns about the fitness of the applicant’s principal. Natalie Shum signed the requisite declaration forms declaring among others that the applicant will educate its drivers and operators about their responsibilities and how to deal with passengers who consume alcoholic beverages or cannabis in its commercial passenger vehicle.

The applicant intends to initially start out with two SUVs to provide private luxury tours to small group of customers from Hong Kong, China and Japan. Tours will be in the Greater Vancouver Area, Whistler and Victoria. Tours will last from four to 12 hours and will be available seven days a week. Tours to Victoria will be overnight.

Joyage plans on leasing vehicles or having drivers bring their own vehicles to provide tour services. Drivers will be paid commission based on the tours they provide and will be receive an allowance for vehicle inspections, vehicle maintenance, vehicle depreciation, and cost spent on fuel, parking, insurance and hygienic maintenance of the vehicles. The applicant has not indicated what proportion of its fleet will be leased and what proportion will be from drivers.

Drivers are required to hold a class 4 driver's licence with a clean driving history of more than 10 years in BC and the requisite criminal record check. Joyage will institute a recall system for each driver with important dates for driver license renewals, obtaining the driver abstract, as well as training and training reviews.

Joyage provided the resumes of its CEO Natalie Shum and of the three other members of the management team. Shum holds a Bachelor of Commerce degree and has over 20 years in the field of accounting, marketing and finance. She has experience in creating marketing materials, organizing sales campaigns and arranging trade shows and seminars. She has worked in Hong Kong as well as in BC. One member of the management team has experience in customer services and sales and marketing in both Hong Kong and in Canada and has expertise in IT. Another is responsible for marketing strategy and a third member is the company's international relations consultant responsible for liaising with overseas business partners and researching overseas business opportunities.

Although the management team does not have direct experience in the transportation business, the Board is satisfied that they have the skills necessary to manage and operate the proposed service. The applicant has demonstrated that it has the knowledge and understanding of the regulatory system and policies that apply and has a reasonable financial plan for the operation.

Having considered the information above, the Board finds that Joyage is a fit and proper entity to provide the propose service and that it has demonstrated that it is capable of providing the 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.

Joyage states that it intends on adding a luxurious and convenient travel option for people visiting BC. It will offer multilingual private tour services to tourists traveling to BC from Hong Kong, China and Japan and also to families originally from these areas but who are visiting from other provinces of Canada. Its target market are customers who have considerable income but limited time and who are willing to pay a premium price for additional convenience and comfort. To capture this market Joyage's tour guides are fluent in Mandarin, Cantonese, Japanese and English. Joyage's marketing plan includes advertising on social media, with targeted ads for its customers in specified cities in China and Japan as well as in Hong Kong.

The applicant references a Statistics Canada 2019 report which states that, not including visitors from the US, one third of international travelers visiting Canada from May to September are from China. The applicant surmises that there will be an increase in travelers from Hong Kong who will come to tour BC for the purpose of future immigration or to select a place for their children to study abroad.

The Business Plan also provides a link to a study from the Hong Kong Polytechnic University that there is a continuous increase in demand for luxury travel by tourists visiting from China and that tourists in the market segment targeted by the applicant seek a sense of uniqueness in their travel experience that can distinguish them from other tourists. Joyage intends to provide the unique type of luxury tour experience which will be attractive to this market.

The applicant explained how its business will differ from that of competitors to support its contention that there is an unmet public need. The applicant states that its strategy of marketing its service overseas in the local language will support a stable and consistent business growth for Joyage.

The Board notes that the market information provided by the applicant is from 2019, a time prior to the COVID-19 pandemic. The Board does not find that information helpful to determine whether there is a public need at this time. The applicant has not provided objective and factual information regarding current tourism to British Columbia from China, Japan and Hong Kong, even though it provided other updated information on its application as recently as August 2021.

The Board is unable to conclude, based on the evidence and information provided by the applicant that there exists sufficient public need for the granting of the application at this time.

(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.

Having found that there is no public need, the Board considers that granting the application would not promote sound economic conditions in the passenger transportation business in British Columbia.

V. Conclusion

For the reasons stated above, the Board refuses the application.