

2331 Burnett Way
P.O. Box 31
Sacramento, CA 95801
(916) 445-1888

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

In the Matter of the Petition of)	
TOYOTA MOTOR DISTRIBUTORS, INC.,)	
)	
Petitioner,)	Petition No. P-16-75
)	
vs.)	L-9591
)	
BURBANK TOYOTA,)	FILED: March 22, 1976
)	
Respondent.)	

DECISION

The above-entitled matter came on regularly for hearing before Ronald M. Gruen, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on October 16, 1975, at the hour of 9:00 a.m.

The petitioner was represented by Bruce W. Owens, attorney at law.

The respondent was represented by Dick Crimeni, President of Burbank Toyota.

Argument was had and the hearing was closed.

The proposed decision in the above entitled matter was considered by the New Motor Vehicle Board on February 18, 1976.

The Board adopted the hearing officer's findings, conclusions and proposed order and made further findings as set forth herein-after below.

"I

Respondent Burbank Toyota, a corporation, is the holder of a new car dealers license, presently operating at 711 South San Fernando Boulevard, Burbank, California.

"II

Respondent corporation is a franchisee of petitioner Toyota Motor Distributors, Inc., a corporation and the franchise agreement requires said respondent corporation to conduct its dealership operations at 833 North San Fernando Boulevard, Burbank, California, unless said petitioner and Toyota Motor Sales, U.S.A., Inc. give prior written approval of any other location.

"III

On May 1, 1975, said respondent unilaterally, without the required approval, moved its dealership operations to its present address at 711 South San Fernando Road, Burbank, California. Petitioner received written notice of said move dated May 6, 1975. As of the date of the hearing, Petitioner had not given written approval for the move.

"IV

Respondent corporation established that it was under compulsion of a court order to vacate the said premises at 833 North San Fernando Road with seventy-two hours ending May 1, 1975, or continue its occupancy under a lease agreement that caused it substantial economic hardship. Said respondent decided to vacate

said premises and move its dealership operations to 711 South San Fernando Road. Because of the short span of time said respondent had in which to make a decision (by virtue of said court order), it was unable to negotiate and seek written approval for the move from Petitioner.

"V

The move by respondent corporation is an accomplished fact and was instituted without providing the petitioner with an opportunity to comply with Section 3062 of the Vehicle Code. Petitioner now seeks clarification of its position relative to the necessity for compliance with the provisions of Section 3062 of the Vehicle Code.

"VI

The relevant market area of respondent's corporation new location is as follows:

- a. Hamer Motors, Inc., 11060 Sepulveda Boulevard, Mission Hills, California 91340.
- b. Hart, Inc., 16747 Ventura Boulevard, Encino, California 91316.
- c. Highland Toyota, 4301 N. Figueroa Street, Los Angeles, California 90065.
- d. Hightower Motors, 2865 Foothill Boulevard, La Crescenta, California 91214.

e. Johnny Lail, 1260 S. Brand Boulevard, Glendale, California 91204.

f. Keyes Motors, Inc., 5905 Van Nuys Boulevard, Van Nuys, California 91401.

g. Toyota of Beverly Hills, 8825 Wilshire Boulevard, Beverly Hills, California 90211.

h. Toyota Central Ltd. 1600 S. Figueroa Street, Los Angeles, California 90015.

i. Toyota of North Hollywood, Inc., 4100 Lankershim Boulevard, North Hollywood, California 91602.

j. Wessman Pontiac-Toyota, 6161 Hollywood Boulevard, Hollywood, California 90028.

* * * * *

"Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Based on the present state of the record the facts found may not necessarily come within the parameters of Section 3062 of the Vehicle Code, literally construed. However, the findings of fact bear sufficient relevance to the objectives contemplated by the statute to justify compliance with its provisions."

THE BOARD FURTHER FINDS that a move, such as that involved in this matter, would require the permission of the franchisor

and, therefore, would require that the franchisor comply with Vehicle Code Section 3062.

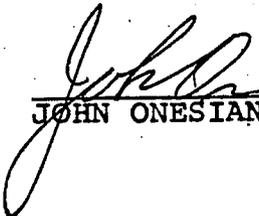
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WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Petitioner shall comply with the provisions of Section 3062 of the Vehicle Code.

The foregoing constitutes
the decision of the NEW
MOTOR VEHICLE BOARD

DATED: *March 17, 1976*



JOHN ONESIAN, PRESIDENT

P-16-75