



REPUBLIC OF KENYA

IN THE TRANSPORT LICENSING APPEALS BOARD AT NAIROBI

APPEAL CASE NO 06 OF 2019

DIGITAL LUXURY TRAVELLERS LTD.....APPELLANT

VERSUS

NATIONAL TRANSPORT AND SAFETY AUTHORITY.....RESPONDENT

(Being an appeal from the decision of the National Transport and Safety Authority dated 11th February, 2019, declining the Appellant's application to extend its route to Odeon Stage/CBD Latema Road.)

JUDGMENT

Introduction

1. The Appellant is a Sacco registered under the Cooperative Societies Act (Cap 490). It is licensed by the Respondent Authority to operate public service vehicles.
2. The Respondent, National Transport and Safety Authority (NTSA), is established under section 3 of the National Transport and Safety Authority Act No. 33 of 2012 and has the responsibility to: advise and make recommendations to the Cabinet Secretary on matters relating to road transport and safety; implement policies relating road transport and safety; plan, manage and regulate the road transport system; ensure the provision of safe, reliable, and efficient road transport services and to administer the Traffic Act.

Background

3. The Appellant filed an appeal at the Transport Licensing Appeals Board (TLAB) via a Memorandum of Appeal dated 8th March, 2019, which was supported by the affidavit of one Stanley Ngugi Gacheru that was sworn on 8th March, 2019. The appeal was occasioned by the failure of the Respondent to extend the route of the Appellant to Odeon Stage/CBD Latema Road.
4. The Appellant appealed against the decision of the Respondent on the grounds that the decision: was discriminatory in nature; in breach of the Appellant's legitimate expectations on fairness & equality; irrational and denied the Appellant its right to natural justice.
5. The Appellant prayed for:
 - i. An order setting aside and reversing the Respondent's decision;*
 - ii. An injunction to stop the further implementation of the decision of the Respondent, requiring the Appellant to continue terminating its journeys at Ngara;*
 - iii. A declaration that the decision of the Respondent declining the Appellant's application to have the Odeon Stage/CBD*

Latema Road as its terminus was in violation of Article 27 (4) of the Constitution for being unlawful and oppressive to the Appellant;

iv. Any other relief, such as loss of user of access to Odeon Stage/CBD Latema Road; and

v. Cost of the appeal.

Appellant's case

6. During the trial, on 5th April, 2019, the Appellant submitted that the Respondent's decision was discriminatory in nature, as it had licensed other operators plying the same route to use the Odeon Stage/CBD Latema Road as their terminus.

7. The Appellant further submitted that it had obtained a letter of no objection from the County Government of Nairobi, dated 15th February, 2016. The letter allowed it to use the Odeon stage as its terminus and stated that Odeon stage was a gazetted terminus for vehicles plying the Kangemi route.

Respondent's case

8. The Respondent submitted that it had no objection to the Appellant's application. It stated that it, however, had to verify the authenticity of the County Government of Nairobi's letter of no objection. The authenticity of the letter was confirmed during the hearing on 31st July, 2019.

Reasoning

The Board confirmed the fact that Odeon Stage/CBD Latema Road was a gazetted terminus for vehicles plying the Kangemi route. The Appellant, being an operator on the said route, was legally **ENTITLED** to use Odeon Stage/CBD Latema Road as its terminus.

Determination

The Transport Licensing Appeals Board finds that the Respondent's decision declining the Appellant's application to use the Odeon Stage/CBD Latema Road as its terminus was unlawful and makes the following orders:

1. **THAT** the Respondent's decision is hereby set aside.
2. **THAT** the Respondent is compelled to issue, within seven (7) days of this order, Road Service Licences (RSLs) to the Appellant's vehicles and the RSLs should include Odeon Stage/CBD Latema Road as a terminus.
3. **THAT** this Order be served upon the Respondent, the Odeon Stage/CBD Latema Road Terminus Enforcement Officer and the Traffic Commandant, with a view to ensuring that **Digital Luxury Travellers Ltd** is allowed to terminate/pick and drop passengers at Odeon Stage/CBD Latema Road from the dated of this order.

Signed and dated atNairobi..... by the Transport Licensing Appeals

Board on this 23rd day of August 2019

Dick Waweru	Chairman
Betty Chepng'etich Bii	Member
Aden Noor Ali	Member



While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions. Read our [Privacy Policy](#) | [Disclaimer](#)