

Docket No. A2012-17

Postal Regulatory Commission
Washington, D.C. 20268-0001

NOTICE OF FILING UNDER 39 U.S.C. § 404(d)

TO THE UNITED STATES POSTAL SERVICE:

Please take notice that on October 17, 2011, the Commission received a petition for review of the Postal Service's determination to close the Venice post office located in Venice, California. The petition for review was filed online on October 17, 2011 by Mark Ryavec (Petitioner).

This notice is advisory only and is being furnished so that the Postal Service may begin assembling the administrative record in advance of any formal appeal proceedings held upon the alleged (closing/consolidation) for transmittal pursuant to 39 CFR § 3001.113(a) (requiring the filing of the record within 15 days of the filing with the Commission of a petition for review). The Postal Service's administrative record is due no later than November 1, 2011.


Shoshana M. Grove
Secretary

Date: October 18, 2011

Attachment

1 JOHN A. HENNING, JR. (State Bar No. 159138)
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3 Los Angeles, California 90048
4 Telephone: (323) 655-6171
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Attorney for Petitioners VENICE STAKEHOLDERS
ASSOCIATION and MARK RYAVEC

BEFORE THE
POSTAL REGULATORY COMMISSION

VENICE STAKEHOLDERS
ASSOCIATION, an unincorporated
nonprofit association; MARK RYAVEC,
an individual,

Petitioners,

v.

UNITED STATES POSTAL SERVICE,
a government entity,

Respondent.

Docket No. _____

**PETITION FOR REVIEW OF
DECISION TO CLOSE VENICE
MAIN POST OFFICE [39 C.F.R.
3001.111];**

AND

**APPLICATION FOR SUSPENSION
OF CLOSURE DECISION
PENDING OUTCOME OF APPEAL
[39 C.F.R. 3001.114]**

1 PETITION FOR REVIEW OF CLOSURE DECISION

2
3 1. Petitioners Venice Stakeholders Association and Mark Ryavec
4 (“Petitioners”) hereby petition the Postal Regulatory Commission, pursuant to 39 C.F.R. §
5 3001.111, for review of the September 23, 2011, decision by the United States Postal
6 Service (the “Service”) to close the historic Venice, California Main Post Office
7 (hereinafter “VMPO”) at 1601 Main Street (hereinafter the “Closure Decision”), a copy of
8 which is attached hereto.

9
10 2. The petition is made on the following grounds:

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12 a. The Closure Decision improperly describes the closure as a
13 “relocation” of a customer service facility to another existing building, namely, the Venice
14 Carrier Annex at 313 Grand Boulevard. The Closure Decision accordingly purports to
15 have been made under 39 C.F.R. § 241.4, a regulation concerning relocations that provides
16 only for a review by the Vice President, Facilities of the Service. Specifically, the Closure
17 Decision states that “This is the final decision of the Postal Service with respect to this
18 matter, and there is no right to further administrative or judicial review of this decision.”

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20 b. In fact, the Closure Decision would result in the elimination of
21 a large retail post office with five customer windows and the establishment in its place of a
22 much smaller retail operation with no more than two customer windows, ancillary to the
23 nearby Venice Carrier Annex. This dramatic decrease in the size of the VMPO
24 simultaneous with its purported “relocation” means that in fact, the action is the functional
25 equivalent of a closure – or at least a partial closure – of the VMPO. Thus, the decision
26 should be, and is, subject to all procedures and considerations associated with a closure
27 under 39 U.S.C. § 404(b) and 39 C.F.R. § 241.3, including an appeal to this Commission.

1 c. The Postal Service has failed to comply with 39 U.S.C. §
2 404(b)(1), which requires, prior to closing the VMPO, the provision of at least 60 days'
3 notice to persons served by such post office;

4
5 d. The Postal Service has failed to comply with 39 U.S.C. §
6 404(b)(2), which requires the Postal Service to consider, before closing the VMPO,
7 numerous factors including the effect on the community, the effect on employees, and the
8 economic savings to the Postal Service;

9
10 e. The Postal Service has failed to comply with 39 C.F.R. §
11 241.3(a)(5), which requires that an initial feasibility study be prepared before any decision
12 to discontinue the VMPO.

13
14 f. The Postal Service has failed to comply with 39 C.F.R. §
15 241.3(c)(1)(i), which requires that the District Manager, in considering whether to
16 recommending closure of the VMPO, to follow all standards and procedures set forth in 39
17 C.F.R. § 241.3(c) and (d).

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19 g. The Postal Service has failed to comply with 39 C.F.R. §
20 241.3(c)(4), which requires the District Manager to prepare a written proposal to close the
21 VMPO, which would describe, analyze and justify in detail the proposed change and its
22 effect on available services, the community, employees, economic savings to the Service,
23 and other factors; and which would notify the public of where to inspect materials on
24 which the proposal was based, and its right of appeal from any final determination; and
25 which requires the District Manager to preserve for the record all documentation used to
26 assess the proposed change.

1 h. The Postal Service has failed to comply with 39 C.F.R. §
2 241.3(d), which requires that the written proposal and a signed invitation for comments be
3 posted prominently at the VMPO and elsewhere, that a community meeting be held on the
4 proposal, and that a complete copy of the record be available for public inspection during
5 normal office hours;

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7 i. The Postal Service has failed to comply with 39 C.F.R. §
8 241.3(e), which requires consideration of all public comments and a final local
9 recommendation by the District Manager concerning the proposal to close the VMPO;

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11 j. The Postal Service has failed to comply with 39 C.F.R. §
12 241.3(f), which requires the preparation of a final written decision by the responsible
13 Headquarters Vice President, including a specific notice advising the public of its right to
14 appeal the determination to this Commission within 30 days after the posting of the
15 determination;

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17 k. The Postal Service failed to comply with 39 U.S.C. §
18 404(b)(3), which requires the determination to close the VMPO to include written findings
19 with respect to the considerations required to be made under with 39 U.S.C. § 404(b)(2),
20 and by failing to make the determination and findings available to persons served by the
21 VMPO; and

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23 l. The Postal Service has failed to comply with 39 U.S.C. §
24 404(b)(4), which requires it to refrain from taking any action to close the VMPO until 60
25 days after its written determination is made.

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1 3. Petitioner Venice Stakeholders Association (“VSA”) is an
2 unincorporated nonprofit association organized under section 501(c)3 of the Internal
3 Revenue Code, which includes members who are served by the VMPO. As such, VSA is a
4 “Person” under 39 C.F.R. § 3001.5 that is served by the VMPO, and thereby entitled to file
5 this Petition.

6
7 4. Petitioner Mark Ryavec is a resident of Venice who is served by the
8 VMPO, and is thereby entitled to file this Petition.

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10 5. Respondent United States Postal Service is a government entity which
11 operates the VMPO and is responsible for the Closure Decision.

12
13 **APPLICATION FOR SUSPENSION OF CLOSURE DECISION**

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15 6. Petitioners further apply pursuant to 39 C.F.R. § 3001.114 for an
16 order suspending the effectiveness of the Closure Decision pending the outcome of this
17 appeal. Such application is made based upon facts that are not subject to dispute, namely,
18 as follows:

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20 a. The closure would result in an immediate and dramatic
21 reduction in the services now provided at the VMPO, including, but not limited to, a
22 reduction of customer service windows by 60 percent, i.e., from five windows to no more
23 than two;

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25 b. The Postal Service is, as a result of the Closure Decision,
26 already attempting to sell the historic structure that has housed the VMPO since 1939; and
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c. If said structure is sold while this appeal is pending, the Postal Service would be incapable of restoring the services that are the subject of the appeal.

PRAYER FOR RELIEF

WHEREFORE, Petitioners request that the Commission:

a. Make an immediate order suspending the effectiveness of the Closure Decision until the final disposition of this appeal;

b. Reverse the Closure Decision and return the matter to the Postal Service for further consideration; and

c. Provide such other and further relief as the Commission deems just and proper.

DATED: October 13, 2011



JOHN A. HENNING, JR.
Attorney for Petitioners
VENICE STAKEHOLDERS ASSOCIATION
and MARK RYAVEC

DAVID E. WILLIAMS
VICE PRESIDENT, NETWORK OPERATIONS



September 23, 2011

John A. Henning, Jr., Esq.
125 N. Sweetzer Avenue
Los Angeles, CA 90048

Dear Mr. Henning,

Thank you for your August 31, 2011 request for review of the decision to relocate retail services currently located at 1601 Main Street, Venice, California. Please find enclosed the final decision of the Postal Service regarding the requests for review relating to that facility.

I was designated as the decision maker in this matter because the Vice President, Facilities, had already concurred in the original decision. The attachment explains our position in more detail and we believe we have addressed all of the concerns expressed by our customers. As I have explained, I will not set aside the original decision.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Williams", with a long horizontal flourish extending to the right.

David E. Williams

Enclosure

cc: Tom A. Samra

Final Decision Regarding Relocation of Retail Services in Venice, California

In accordance with the procedures set forth at 39 C.F.R. § 241.4(c)(6), this is the final decision of the Postal Service with respect to the relocation of retail services from the Venice, California Main Post Office at 1601 Main Street to the Venice Carrier Annex at 313 Grand Boulevard. The Postal Service announced its decision to relocate retail services on July 18, 2011 and subsequently received requests for review from several postal customers. I have carefully considered all the concerns expressed by our customers in each of the requests for review and other correspondence along with the complete project file relating to the relocation proposal. While I am sympathetic to some of the concerns raised, for the reasons set forth below, I will not set aside the Postal Service's prior decision.

Postal customers raised concerns about impacts the Postal Service's decision to relocate retail services might have on (1) historic resources and (2) the surrounding environment, specifically traffic and parking impacts within a coastal zone and in the residential neighborhood around the Venice Carrier Annex. Each of these issues is addressed below.

I. Historic Resources

The Venice Main Post Office was constructed in 1939 and is eligible for listing in the National Register of Historic Places. An oil-on-canvas mural entitled "Story of Venice" by artist Edward Biberman is currently on display in the lobby. Several customers expressed concern that the building and/or mural would not be preserved.

Section 106 of National Historic Preservation Act ("NHPA") requires federal agencies to take into account the effects of their proposed undertakings on historic properties, and when such effects are possible, to initiate and complete the Section 106 consultation process. Section 106 review ensures that federal agencies consider historic properties, along with other factors such as cost and agency mission, in the planning process of proposed undertakings. However, the preservation of every historic property is not the goal of Section 106, nor does Section 106 require a business to continue to operate in a historic property even if doing so causes the business to become unprofitable.

The relocation of retail services is not an "undertaking" within the meaning of Section 106. An undertaking is a "project, activity or program" that can result in changes in the character or use of historic properties. The relocation of retail services does not alter the character of the Venice Main Post Office building or the mural. Nor does it change the uses that can be made of the property. There will be no "undertaking" within the meaning of NHPA until the Postal Service adopts a plan for the reuse of the Venice Main Post Office or the transfer of the Post Office building from Postal Service ownership to private ownership. The

Postal Service will initiate the Section 106 consultation process when it develops plans for the reuse or disposal of the property, and the City of Venice will be a consulting party. The Postal Service will include measures to ensure the mural will remain available for public viewing in any plan for reuse or disposal of the Post Office property.

II. Traffic and Parking

The Venice Main Post Office will be relocated 400 feet to the Venice Carrier Annex. The relocation will not result in any negative environmental impacts, nor will it be inconsistent with the policies of the California Coastal Act. The Carrier Annex can accommodate retail counters and Post Office Boxes without expansion of the building. While trips will be 400 feet shorter or longer depending on the direction from which vehicles are traveling, there will be no rerouting of traffic as a result of the relocation. Although several customers expressed concerns about a parking shortage in the area, this situation should not be exacerbated by the relocation of the Venice Main Post Office since the Carrier Annex property includes an on-site parking lot for postal vehicles and will be restriped to accommodate additional parking spaces for our customers.

III. Balancing the Impact on the Community and the Best Interests of the Postal Service

While the Postal Service is not insensitive to the impact of this decision on its customers and the Venice community, the relocation of the Venice Main Post Office is in the best interest of the Postal Service. The Venice Carrier Annex can accommodate the retail counters and Post Office Boxes without expansion of the building. Relocation of the carriers from the Venice Carrier Annex to the Venice Main Post Office was considered, but rejected because the Venice Main Post Office has insufficient parking to accommodate additional operations and insufficient platform space to accommodate tractor/trailer mail delivery. I have also taken into account the comments regarding the physical appearance of the Annex. The Postal Service will realize an annual cost savings of \$135,498 by moving retail services into the Venice Carrier Annex. The annual cost savings takes into consideration the cost of relocation, which is offset by savings from utilities and maintenance labor.

In reaching this decision, I considered all of the public input received but the objections expressed do not outweigh the financial exigencies facing the Postal Service. With current projections for declining mail volume, and the financial condition of the Postal Service, the Postal Service must make any feasible change to reduce costs. As our customers are no doubt aware, the Postal Service is funded by the sales of its services and products. It has an obligation to match its retail and distribution networks to the demand for its services from customers.

Accordingly, I conclude that there is no basis to set aside the decision to relocate the Venice Main Post Office, 1601 Main Street, to the Venice Carrier Annex, 313 Grand Boulevard. This is the final decision of the Postal Service with respect to this matter, and there is no right to further administrative or judicial review of this decision.

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

David E. Williams
Vice President, Network Operations