



U.S. Department
of Transportation
**Federal Aviation
Administration**

Western-Pacific Region
Airports Division

15000 Aviation Boulevard
Lawndale, CA 90261

May 23, 2017

Tim Rowe
Airport Manager
Carson City Airport Authority
2600 College Parkway, #6
Carson City, NV 89706

**Part 13.1 Informal Complaint Follow-Up
Carson City Airport, Nevada**

Dear Mr. Rowe:

Thank you for your letter dated May 4, 2017 that provided a response to an informal complaint related to Carson City Airport. We appreciate Carson City's attention to the issues contained in the complaint.

We are providing feedback related to the information you provided in your May 4th letter.

Hangar Use

You reported that the City is in the process of developing a hangar use and monitoring program that will be authorized by the Airport Authority and the Board of Supervisors and incorporated into Carson City Municipal Code (CCMC) Title 19. It was estimated that this process will be complete at the end of this summer 2017.

We look forward to progress reports and a final report when the process is completed. We also need the City to respond to Vincent Vaccarro's allegation that certain hangars are not being used for an aeronautical purpose.

Mr. Vaccarro identified the following hangars: C1, C2, H61, H9, H26, H36, H-20, H22, H23, H24, T24, SA#2, JR07 or VR07, Silver Flight #4, and two to three hangars used by Eric Leach for a machine shop and the storage of un-airworthy aircraft. These hangars should be inspected to determine if they are being used for non-aeronautical purposes and to verify if the hangar occupant truly owns or leases an airworthy or operational aircraft. If there is a machine shop in the hangar(s), would such a use be permitted by the lease agreement as well as local ordinances or code?

Hangar Policy

You reported that the Airport Authority approved the acceptance of a storage hangar use program formulated by the Hangar Users Group. We have reviewed the Storage Hangar Use Policy and provide the following guidance related to several tenets contained in it.

In the comment section of the Policy on Page 4, it states, “...it seems to be in the best interest of CXP to not only permit, but to encourage the broad use of our primarily aeronautical hangars for non-interfering non-aeronautical uses in order to keep CXP attractive for existing CXP users and attract new additions to our community while resisting feel-good restrictions not absolutely necessary.”

Guidance: Local governments receive taxpayer-provided financial assistance in exchange for a legally binding commitment to preserve their airports for aeronautical purposes. Clearly, airport hangars are intended to store aircraft. The FAA hangar use policy was adopted because the FAA recognized that secondary uses of hangars could be allowed so long as none interfered with or prevented the primary aeronautical use of hangars. It may be detrimental to the goal of preserving hangars for aircraft storage if local airport policy actually encourages and facilitates the non-aeronautical uses of hangars, especially if non-aeronautical uses were to completely displace any real aeronautical use.

Paragraph 4 at the top of Page 5 states, “*Other Aeronautical: To ‘Aeronautical Use,’ was added ‘Other Aeronautical,’ to preserve options for the Authority.*”

Guidance: Aeronautical activity is defined by the FAA. See FAA Order 5190.6B, Airport Compliance Manual, Appendix Z, Page 314 for the definition of an “aeronautical activity.” An activity that does not conform to the definition should not officially be called an aeronautical activity. For example, a bus that transports passengers to the airport is not performing an aeronautical activity. The assembly of an aircraft, by definition, is not an aeronautical activity although it clearly appears to be sufficiently aviation-related. For this reason, the FAA hangar use policy has agreed that hangars could be used to assemble aircraft, although aircraft assembly is not defined as an aeronautical activity.

Paragraph 5 on Page 5 contains the following statement: “*I believe most CXP storage hangars are clearly occupied for aeronautical use.*” Later in the section, it states, “...in those instances where no specific aircraft can be identified, I anticipate use of supporting documentation to support a claim of aeronautical use, such as equipment lists, maintenance orders, photos, etc.”

Guidance: This opinion suggests that one does not need to verify that hangars are being used for aircraft storage. It would rely on reports by the hangar occupants that they indeed have an aircraft. This policy would represent a strategy of tacit acceptance without verification. Hangar inspection programs are intended to establish whether or not hangar occupants are complying with lease agreements, local ordinances, fire code, building code, and other regulatory requirements. One cannot gauge compliance and correct non-compliance without actually inspecting hangar facilities. This is why it is a prudent airport policy to include the City’s inspection rights in lease agreements.

The last paragraph on Page 5 contains the statement, "*Here I propose a right for the Authority to impose a penalty upon the lessee which holds the ground lease for the subject offending hangar occupant.*"

Guidance: The local policy recommends penalties for hangar non-compliance, but does not identify what penalties can be imposed. Although the FAA does not characterize the consequences of non-compliance as penalties, there are specific consequences associated with the non-aeronautical use of airport hangars. In accordance with the *Policy and Procedures Concerning the Use of Airport Revenue*, (64FR7696, 2/16/1999), Grant Assurance 24 requires that airports charge fair market value rates for non-aeronautical uses of airport property. The non-aeronautical rate should not be the same as the aeronautical rate, but a higher rate that reflects market rates off the airport for comparable uses, such as industrial use. Therefore, hangars being used for non-aeronautical purposes should be subject to a rate increase to fair market value. The higher non-aeronautical rates can be viewed as the cost of doing business at the airport rather than as a penalty.

Lease Extension

Mr. Vaccarro alleged that the City acted imprudently when it extended several airport leases with rental rates that were too low. In accordance with Grant Assurances 22 and 24 respectfully, the airport is required to be available on reasonable terms and without unjust discrimination, and to charge rates that will make the airport as self-sustaining as possible.

To be in compliance with these Assurances, the City must apply rates and charges that are reasonable to the aeronautical users and impose fair market value rates on the non-aeronautical users.

Based on the information that the City provided, we concluded that the methodology the City used to adjust the rental rate is reasonable in that it was based on an appraisal. Therefore, the lease rates applicable to these tenants comply with the reasonable standard.

The City believes that the grant of a lease extension is justified because the tenants made an equity investment in the airport by contributing financially to the upgrade of the airport terminal. Ordinarily, based on FAA policy, leases with terms over 50 years are objectionable. However, the City explained that, in addition to an equity investment, these leases were adjusted upward based on an appraisal; they are subject to CPI increases every two years and to a rate adjustment based on an appraisal every ten years; and each tenant is required to make an investment in hangar improvements every ten years. In consideration of the foregoing lease terms, we concluded that there was sufficient reason to justify the lease extension. Therefore, the extended term of the lease is not considered objectionable in this case.

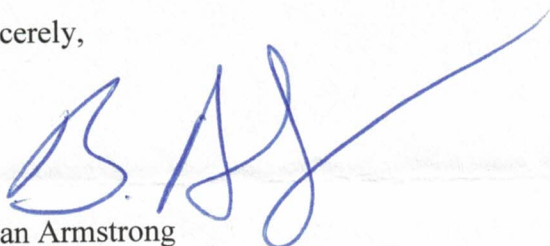
As a result, we have concluded that the lease extension and rental rates do not represent non-compliance with the Grant Assurances. However, if it is subsequently determined that hangars are being used for non-aeronautical purposes and do not contain a useable aircraft, there would be a compliance shortcoming if the rental rates are less than fair market value.

Follow-Up

We look forward to being kept informed of the City's progress with the implementation of the Storage Hangar Use Policy and the manner in which it will monitor and inspect hangars to ensure compliance with both the City's Policy and the FAA's hangar use policy, as well as to provide your findings regarding the hangars identified on page one of the letter.

If you have any questions or wish to discuss this matter, please contact Anthony Garcia at (310) 725-3634 or Anthony.Garcia@faa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'BAJ', with a long horizontal stroke extending to the right.

Brian Armstrong
Manager, Airport Safety and Standards Branch