

JUL 31 2015

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No. 15-1247

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

UNITED STATES COURT OF APPEALS FOR DISTRICT OF COLUMBIA CIRCUIT	
FILED	JUL 31 2015
CLERK	

STORY PRESERVATION ASSOCIATION, INC.; ROBERT A. CROFT;
WILLO NEIGHBORHOOD ASSOCIATION; MARILYN RENDON;
ENCANTO-PALMCROFT HISTORIC PRESERVATION ASSOCIATION, INC.;
BRENT J. KLEINMAN; ROOSEVELT ACTION ASSOCIATION, INC.;
KARL G. OBERGH; JUDITH HILLMAN-BUTZINE; CHRISTIN PUETZ; JOHN SACCOMAN;
TWILA LAKE,
Petitioners,

v.

FEDERAL AVIATION ADMINISTRATION;
MICHAEL HUERTA, Administrator,
Federal Aviation Administration
Respondents.

PETITION FOR REVIEW

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Attorneys for Petitioners STORY PRESERVATION ASSOCIATION, INC., ET AL.

Pursuant to 49 U.S.C. § 46110 and Rule 15(a) of the Federal Rules of Appellate Procedure, the Story Preservation Association, the Willo Neighborhood Association, the Encanto-Palmcroft Historic Preservation Association, the Roosevelt Action Association, Robert A. Croft, Marilyn Rendon, Brent J. Kleinman, Karl G. Obergh, Judith Hillman-Butzine, Christin Puetz, John Saccoman, and Twila Lake (“Petitioners”) hereby petition the United States Court of Appeals for the District of Columbia Circuit for review of final decisions by the Federal Aviation Administration (“FAA”) to (i) permanently implement certain flight departure routes at Phoenix Sky Harbor International Airport and (ii) refuse to reopen consultation or conduct required environmental review of alternative flight departure routes that would have fewer significant adverse impacts on the Historic Neighborhoods and their residents.

Petitioners the Story Preservation Association, the Willo Neighborhood Association, the Encanto-Palmcroft Historic Preservation Association, and the Roosevelt Action Association are non-profit neighborhood groups representing the F.Q. Story, Willo, Encanto-Palmcroft, and Roosevelt historic districts of Phoenix, Arizona (together with the Woodland Historic District, the “Historic Neighborhoods”). Each of the Historic Neighborhoods is listed in the National Register of Historic Places, an official and exclusive inventory maintained by the

Secretary of the Interior, which consists of properties determined to be “significant in American history...and culture.” 54 U.S.C. § 302101. Each of the Historic Neighborhoods has suffered — and will continue to suffer — significant, adverse impacts as a result of the FAA’s flight departure routes. Relevant excerpts from the National Register of Historic Places are included as Attachment A to this Petition.

Petitioners Robert A. Croft, Marilyn Rendon, Brent J. Kleinman, Karl G. Obergh, Judith Hillman-Butzine, Christin Puetz, John Saccoman, and Twila Lake are residents of the Historic Neighborhoods who have suffered — and will continue to suffer — significant, adverse impacts as a result of the FAA’s flight departure routes.

FAA’s decision with respect to the flight departure routes was finalized and announced in a June 1, 2015 letter from Regional Administrator Glen Martin to City of Phoenix City Manager Ed Zuercher (“June 2015 Letter”), a copy of which is included as Attachment B to this Petition. The June 15 Letter relies, in turn, on an April 14, 2015 letter from Regional Administrator Glen Martin to City of Phoenix City Manager Ed Zuercher (included as Attachment C), an Assessment Report (included as Attachment D), a 2013 FAA Air Traffic Initial Environmental Review (included as Attachment E), a 2014 FAA “Memo to File” (included as

Attachment F), and an errata sheet for the 2013 Initial Environmental Review and 2014 Memo to File (included as Attachment G).

Petitioners are aware that the City of Phoenix has separately (i) filed a Petition for Review of the FAA actions finalized and memorialized in the June 2015 Letter (D.C. Cir. Case No. 15-1158), (ii) filed a formal Protest with the FAA, and (iii) engaged with the FAA in a process to resolve that Protest, the result of which will (eventually) be a new agency action either approving or rejecting further changes to flight departure routes at Phoenix Sky Harbor International Airport.¹

Although Petitioners generally support the City's Protest, Petition, and engagement with the FAA, they respectfully submit that the City's actions do not fully address (i) Petitioners' more specific environmental and historic interests in the Historic Neighborhoods nor (ii) their current, ongoing injuries from the FAA's flight departure routes. That being the case, Petitioners submit this Petition for Review and currently anticipate filing their own formal Protest with the FAA within approximately 30 days.

¹ The FAA seems to concede that further decision-making is under way and will result in further changes. *See, e.g.*, Respondents' Motion to Dismiss (Case No. 15-1158, Doc. 1563118) at 4 ("those changes have not been subject to environmental review or final implementation and any such challenge is premature"), 18 ("[n]one of the identified possible modifications have been adopted at this time, so challenges to them, of course, are premature").

Petitioners are also aware that the FAA has filed a Motion to Dismiss the City's Petition for Review (Case No. 15-1158, Doc. 1563118) alleging that the City's Petition was filed either too early or too late. For the record, Petitioners strongly support the City's position that its Petition for Review was timely filed. However, should the Court be inclined to grant the Motion to Dismiss, Petitioners respectfully request that such dismissal be based on the FAA's argument that the City's Petition was filed too early, thereby preserving Petitioners' right to be heard and allowing such hearing to proceed in an orderly manner simultaneously with the proceedings resulting from the outcome of the City's (and Petitioners') Protest.

RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 Petitioners, by and through their counsel, hereby disclose that:

A. Story Preservation Association, Inc. (“Story”) is a non-profit corporation. There is no parent corporation for Story. There is no publicly held corporation or investment fund that holds a 10% or more ownership interest in Story. Story is the homeowners’ association for the F.Q. Story Historic District, which is listed in the National Register of Historic Places. Story was organized for the improvement and protection of the neighborhood.

B. Willo Neighborhood Association (“Willo”) is a non-profit corporation. There is no parent corporation for Willo. There is no publicly held corporation or investment fund that holds a 10% or more ownership interest in Willo. Willo is the homeowners’ association for the Willo Historic District, which is listed in the National Register of Historic Places. Willo was organized for the improvement and protection of the neighborhood.

C. Encanto-Palmercroft Historic Preservation Association, Inc. (“EPHPA”) is a non-profit corporation. There is no parent corporation for EPHPA. There is no publicly held corporation or investment fund that holds a 10% or more ownership interest in EPHPA. EPHPA is the homeowners’ association for the

Encanto-Palmcroft Historic District, which is listed in the National Register of Historic Places. EPHPA was organized for the improvement and protection of the neighborhood.

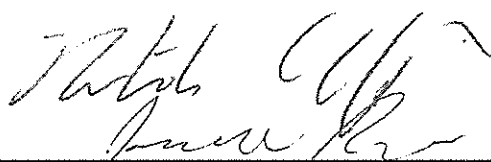
D. Roosevelt Action Association, Inc. ("RAA") is a non-profit corporation. There is no parent corporation for RAA. There is no publicly held corporation or investment fund that holds a 10% or more ownership interest in RAA. RAA is the homeowners' association for the Roosevelt Historic District, which is listed in the National Register of Historic Places. RAA was organized for the improvement and protection the neighborhood.

Dated: July 31, 2015

Respectfully submitted,

DENTONS US LLP

By



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Matthew G. Adams
James W. Rubin
Attorneys for Petitioners

² Mr. Yost is admitted to practice in this court (USDC-DC Bar No. 968289). He is admitted to the District of Columbia Bar, but his membership is currently inactive; he is an active member of the California Bar and practices under that membership (CA Bar No. 35297).

CERTIFICATE OF SERVICE

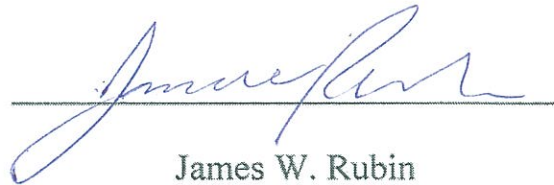
I hereby certify, in accordance with Fed. Rule of App. Proc. 15(c)(1), that a true copy of the foregoing Petition for Review and attachments were served by US mail on this 31st day of July, 2015 on the following:

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