

# City cites corporate greed as motivation for new airport complaint

Matthew Hall, Santa Monica Daily Press | February 12, 2016

The City of Santa Monica has responded to the latest airport complaint by claiming the new Part 16 hearing is an attempt by corporate interests to undermine residential control of the Santa Monica Airport.

Mark Smith, Kim Davidson Aviation Inc., Bill's Air Center Inc., Justice Aviation Inc., the National Business Aviation Association Inc. (NBAA) and the Aircraft

Owners and Pilots Association (AOPA) filed a complaint with the Federal Aviation Administration on Feb. 5 alleging financial misconduct by the City.

Their complaint has three central arguments: that the City has illegally diverted airport revenues away from airport uses, that leases are being unfairly enforced in a way that inappropriately favors non-aviation tenants and that pilots are subject to unreasonably high fines/fees.

According to the complaint, the city has diverted money through mishandling loans. Specifically the City is accused of charging interest on loans at rates in excess of FAA policy and charging the airport for loans that are not supported by documentation.

The complainants single out landing fees as a burden on pilots, alleging the fees are too high, were adopted without proper procedure, have resulted in illegal revenue surpluses and amount to double charges for some tenants.

The lease arguments allege the City is offering below market rates to Santa Monica College, is unreasonably delaying all aviation lease activity and imposing month-to-month leases for aviation tenants without justification.

Attorney Richard K. Simon filed the complaint on behalf of the complainants and said the City is in clear violation of the rules.

“The City of Santa Monica, in owning and operating the airport, has federal, contractual and legal obligations,” he said. “We contend that in several different ways, they have violated those obligations.”

The City hasn't released a response to the specific accusations, but did send out a response to the complaint at large.



Nelson Hernandez, senior advisor to the City Manager, said the latest complaint was an attempt by corporate interests to undermine local control of the airport.

“... the Airport belongs to the people of Santa Monica not to corporate interest,” he wrote. “Our interest is the public interest. Our interest is to promote the well-being of tens of thousands of residents and control land purchased by the taxpayers of Santa Monica. What NBAA wants is to use our property, public property, for a select group of people that can afford private jets solely for their convenience. Although their arguments are wrapped in beautiful legal prose, when you peel away the curtain what you find is corporate interest who ordinarily believe in property rights except when it is an inconvenience for them.”

Simon said his clients are small business owners and private citizens who have received financial support from NBAA and AOPA because it would too expensive for a small business to fight the City without additional aid.

“They couldn’t otherwise afford to fight the City, which has spent multi-millions of dollars to defend its illegal actions over the years,” he said.

City officials said the new complaint was expected given the ongoing disputes over control of the airport.

“The new Part 16 Complaint filed last Friday by National Business Aviation Association, Inc. (NBAA), an association representing 10,000 corporations nationwide, is yet another expensive example of corporate aviation interests bullying us to preserve amenities that benefit only the upper echelon that can afford traveling by private air,” said Mayor Tony Vazquez in a statement. “Our city council will continue our fight to protect the health and wellbeing of our community and surrounding neighborhoods.”

Simon said blaming corporations might be an effective public relations strategy, but doing so has no bearing on the merits of the case.

“The City will lose on most, if not all of, these claims, and then I will be very interested to see what their response is,” he said. “The City has no answer to most of these. The City basically just stole the money and has no explanation because there isn’t one.”

A Part 16 complaint is an administrative hearing before the FAA. Federal rules require the hearing before any action can be taken in court.

City Hall recently lost an unrelated Part 16 complaint regarding the mandated life of the airport and is appealing that ruling.

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