



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

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

August 29, 2016

Tony Vazquez
Mayor, City of Santa Monica
1685 Main Street, Room 209
Santa Monica, CA 90401

Dear Mr. Vazquez:

I am writing to express concerns about certain actions the City of Santa Monica is taking at Santa Monica Municipal Airport (SMO). These actions include, in part:

- A City Council agenda item expressing the Council's intention to close the airport to aviation use "as soon as it is legally permitted with a goal of June 30, 2018";
- The new Airport Leasing policy and the issuance of leases for several non-aeronautical users, but a practice of not issuing leases to aeronautical users;
- Your plan to implement a proprietary exclusive fixed base operation;
- A Staff Recommendation that the City Manager takes action to eliminate leaded fuel.

In 2003, the City accepted a grant offer of federal funds. This offer was in the form of an amendment to a prior grant. Accordingly, the FAA has determined through a Part 16 adjudication that the grant assurances apply through 2023. *National Business Aircraft Association et al. v City of Santa Monica*, Final Agency Decision dated August 15, 2016, Docket No. 16-14-04. Under the grant assurances, the City must make the airport available as an airport for public use on fair and reasonable terms and without unjust discrimination. There are similar requirements under deeds issued by the FAA under the Surplus Property Act, which are at issue in federal court. The Airport Noise and Capacity Act also establishes a national program for review of airport access restrictions that requires FAA to approve restrictions on operations by Stage 3 aircraft.

We are, of course, aware that the City has the right to appeal the Final Agency Decision in federal appellate court. It is our position that pending judicial review, the City is required to continue to operate the airport for public use on reasonable terms and without unjust

discrimination. Under federal law, the FAA holds plenary authority over matters concerning air navigation facilities. 49 U.S.C. §§ 40103(b), 44502, 44721, 47107, 47111(f). The Secretary of Transportation, and through delegation the FAA, is authorized to issue orders enforcing federal aviation laws. 49 U.S.C. §§ 40113(a), 46105, 47122(a). The FAA may issue orders and take such other actions as are necessary to fulfill the purposes of 14 C.F.R. part 16, which governs the process for investigations and administrative adjudications of certain violations of the federal aviation laws. 14 C.F.R. § 16.11(b). Such an order “remains in effect under its own terms,” 49 U.S.C. § 46105(a), and all affected persons are required to comply with such order.

The FAA may ask the court to enjoin the City from acts in the nature of self-help. See, *U.S. v. City of Santa Monica*, No. CV 08-2695, p.3 (C.D. Cal. May 16, 2008) (order granting preliminary injunction). See also; *United States v City of New Haven*, 447 F.2d 972 (2d Cir. 1971)(order granting preliminary injunction to restrain enforcement of state court’s order purporting to regulate flight of aircraft and close portion of runway).

We understand that the City Council has firm views regarding its rights in this matter. However, we strongly urge the City Council to abide by its federal grant assurance obligations and to forbear from taking actions in furtherance of its announced intent to close SMO pending further rulings by the federal courts. The FAA is prepared to pursue all legal remedies at its disposal if the City Council takes concrete actions to restrict leases or operations without complying with applicable federal law or otherwise seeks to undermine the Final Agency Decision dated August 15, 2016.

Prior to implementation, we request that the City prepare and submit its plan for proprietary exclusive fixed based operations to the FAA for review. The City should also submit the current leasing policy for review.

This is not a final agency decision or order of the Administrator under 49 USC §46110.

Sincerely,



Kevin C. Willis
Director of Airport Compliance
and Management Analysis

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