

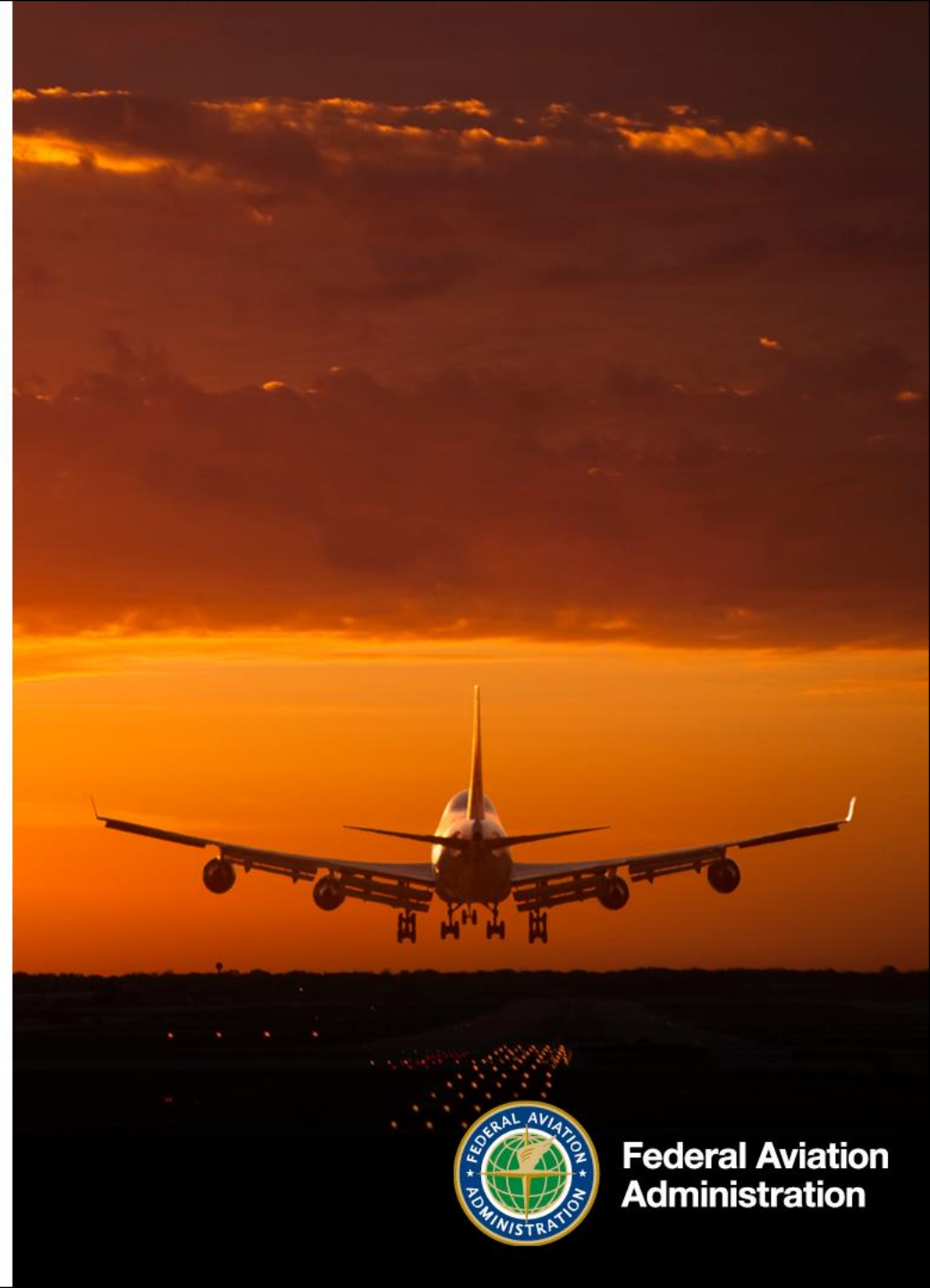
Part 16 Case Studies

Airport Access by Aeronautical Users

Presented to: Airports Compliance Workshop

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About the Presenters

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Agenda

- 14 CFR Part 16 and who can file a formal Part 16 Complaint
- Discuss three (3) Part 16 Director Determinations concerning reasonable airport access.
- The allegations, evaluation process, and key findings of each will be discussed in detail.
- Recommended practices for sponsors engaged in Part 16 actions



14 CFR Part 16

- Rules of practice for federally-assisted airport enforcement proceedings
- “A Part 16 Complaint”



Who can file a Part 16 formal complaint?

- A person *directly and substantially affected* by the sponsor's actions
- Only after an attempt at informal resolution is demonstrated (Part 13)
- Complaint must be filed by individual or entity directly affected by the potential violation
 - This includes “associations” who are representative of affected members
- A person paying fees/doing business with the airport are considered substantially affected where revenue diversion alleged
- Civil Rights allegations investigated by the FAA Office of Civil Rights



14 CFR Part 16 (Part 16) process

- 14 CFR Part 16 prescribes very specific filing requirements
- These procedural processes must be followed by the Complainant, the Sponsor, and the FAA.
- Complaint, Answer, Reply, and Rebuttal
- Motions to Dismiss and Motions for Summary Judgement
- Complaints are investigated by ACO-100 with legal sufficiency review by our Airport Law Branch (AGC-600)



Part 16 process

- ACO-100 relies on the administrative record (pleadings and exhibits). ACO will request additional information if needed.
- Results in a Director's Determination (DD) signed by ACO-100.
- Appeal results in Final Agency Decision (FAD) signed by ARP-1.
- FAD may be appealed to the US Court of Appeals in DC or in the airport's jurisdiction.
- ACO-100 may initiate a Part 16 Notice of Investigation.



South Pacific Flying v. State of Hawaii Department of Transportation, Hawaii - FAA Docket No. 16-21-15

- Flying Club alleged the sponsor:
- Unreasonably terminated hangar permit/airport access
- Denied hangar access for noncommercial rates unless the club provides proof of tax-exempt status from the IRS
- Developed unjustly discriminatory procedures and standards for flying clubs.
- Director found violations of GA 22, Economic Nondiscrimination



Key Findings – 16-21-15

- Sponsor reasonably terminated hangar permit;
- IRS-based tax exemption requirements as the evidentiary means for providing reasonable flying club access is unreasonable.
- State-level certification of nonprofit status sufficiently satisfies the component of FAA policy.
- Flight instruction and mechanic services compensation limited to credit towards club dues or flight time is against FAA policy.



Captain Errol Forman v. Palm Beach County, Florida, et al. - FAA Docket No. 16-17-13

- Twin-engine, turbofan jet owner alleged
- 1973 regulation providing that “all **jet aircraft** in addition to all aircraft weighing in excess of **12,500 pounds** engaged in aircraft **cargo operations**, shall be prohibited from parking, landing, or taking off from the Lantana Airport” violates the applicable federal obligations.
- Complainant had filed a 14 CFR Part 13 Complaint alleging that the jet ban violated Grant Assurance 22. FAA concurred.



Key Findings – 16-17-13

- Director found violations:
 - Sponsor unjustly discriminated against jet aircraft.
 - Analysis not conducted to determine if jet aircraft ban and the other elements of the restriction were justified.
- Jet ban not grandfathered under the Airport Noise and Capacity Act of 1990 (ANCA).
- FAA decision upheld by US Court of Appeal for the 11th Circuit.



Frank Casares v. City of Longmont, Colorado - FAA Docket No. 16-19-03

- Commercial skydiving operator alleged Longmont, the sponsor
- Established PDZ location and size tied in with a per-square-foot nonexclusive access fee.
- Restricted skydiving through an arbitrary and unreasonable fee, arbitrary restriction of available landing area, and off-PDZ reporting structure.
- The Director determined that there were no violations. Associate Administrator affirmed the determination.



Key Findings – 16-19-03

- However, the key finding determined is the acceptable level of aviation safety as determined by the FAA.
- A sponsor should not assume an enforcement role beyond the FAA guidance and expertise, or who introduces safety risks.
- Reasonable access without unjust discrimination and without excessive terms and conditions, and to observe and adhere to FAA safety review provided by Flight Standards (AFS-830)
- Otherwise, sponsor's actions may be inconsistent with Grant Assurance 22.



Recommendations for Sponsors Involved with a Part 16

- Review 14 CFR Part 16 and understand the process.
- Recognize the airport sponsor's obligations from grant assurances and deeds.
- Docketing means FAA believes the allegations merit investigation.
- Respond to each allegation.
- Tell the story. Respond to each allegation and include supporting documentation needed to substantiate the facts.
- Part 16 focuses on current compliance. Admit fixed past issues.

