



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Airports Division  
Suite 540  
1701 Columbia Avenue  
College Park, GA 30337  
Phone: 404-305-6700

April 18, 2017

Mr. Peter J. Kirsch  
Kaplan Kirsch & Rockwell LLP  
1675 Broadway #2300  
Denver, CO 80202

Part 13.1 Report  
Palm Beach County Park (LNA)

Dear Mr. Kirsch:

The Federal Aviation Administration's (FAA) Southern Region Airports Division received your April 5, 2017 letter. We understand that your client, Palm Beach County (County), owner of the Palm Beach County Park (LNA), seeks additional information related to the region's review of the informal complaint initiated by Errol Forman under 14 Code of Federal Regulations (CFR) part 13.1, *FAA Investigative and Enforcement Procedures*. This letter responds to those specific questions, clarifies the region's request that the County take corrective action, and reiterates the County's right to appeal.

On December 6, 2016, the FAA's Southern Region completed its preliminary review of the complaint initiated by Mr. Forman. The conclusions contained in our December 6 letter were based on the County's obligations, applicable federal law, FAA policy, and the facts presented by the parties. The FAA's Southern Region preliminarily concluded that the County's restriction, as implemented at LNA, could be unjustly discriminatory and inconsistent with the County's obligations. This office advised the parties that the restriction would be further assessed in coordination with the FAA's Air Traffic Organization (ATO).

FAA Order 5190.6B, *FAA Airport Compliance Manual*, requires the FAA's Airports Division to coordinate its review of existing or proposed restrictions on aeronautical activities at federally obligated airports with Flight Standards and/or ATO. However, the Order does not prescribe a particular method or tool for conducting this coordination. The FAA's Southern Region Airports Division initiated a study through the FAA's Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) tool. The enclosed letter contains the comments provided in response to the OE/AAA airspace study.

After learning that ATO had no objections to lifting the jet ban at LNA, this office discussed the study with ATO staff in the region and the Air Traffic Control Manager for West Palm Beach. ATO staff in the region verbally advised this office that ATO issues clearances as requested by pilots; if a pilot requests to land at a non-towered airport, ATO will clear the pilot to land. The

Air Traffic Control Manager for West Palm Beach verbally advised this office that permitting jets to utilize the north-south runways at LNA could potentially impact air traffic efficiency at Palm Beach International (PBI) and Boca Raton (BCT). The Air Traffic Control Manager declined to describe the potential impact as adverse because the lengths of the runways at LNA limit the categories of jet aircraft that may operate from these runways. However, permitting jets to operate from LNA's runway 9-27, with its east-west configuration, will not impact airspace efficiency.

The March 17 complaint review letter reflects the views expressed by the West Palm Beach Air Traffic Control Manager. Our decision to sustain the jet ban on two of LNA's three runways may be appealed by Mr. Forman.

This office could find no requirement to utilize the Safety Management System (SMS) concept in its analysis of how the introduction of jet aircraft and turbofan aircraft may affect the safety and efficiency at LNA and surrounding airports. Within the Airports Division, the safety risk management component of SMS is used for the safety analysis supporting decisions on airport planning, development, and standards proposals.

The FAA's Southern Region determined that its review of this matter did not result in any action requiring analysis under the National Environmental Policy Act (NEPA). FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures*, Paragraph 2-1.2.c, states that actions taken under 14 CFR part 13 do not require analysis under NEPA. Moreover, the FAA has taken no action to alter, add, or move any existing flight procedures or waypoints associated with LNA. Absent a request from the County seeking major federal action related to LNA, as outlined in FAA Order 5050.4B, *National Environmental Policy Act Implementing Instructions for Airport Actions*, Chapter 1, Paragraph 9(g), the supplemental guidance directing Airports Division's employees with regard to NEPA is not considered.

Your letter states that you do not understand how the FAA expects the County to enforce its restriction on only two of three runways without real-time access to air traffic records on runway usage. This office is unclear as to why real-time access to air traffic records on runway usage is needed. The County's June 10, 2016 answer to Mr. Forman's complaint describes specific violations of the full jet ban and enforcement actions that were pending at the time of the complaint. This documents that the County currently has a mechanism in place to monitor operations at LNA.

The March 17 complaint review letter asked the County to take corrective action. Specifically, we asked the County to update information regarding its restriction on jet operations at LNA with the FAA's Flight Data Center, the Florida Department of Transportation's Aviation and Spaceports Office, and the County's website within 60 days. This action is necessary to address the compliance deficiency identified in our review of the complaint.

The FAA Southern Region's review of Mr. Forman's complaint was conducted in accordance with guidance contained in FAA Order 5190.6B, *FAA Airport Compliance Manual*, Chapters 5 and 14, and Compliance Guidance Letter 2014-01, *Procedures for Accepting and Investigating 14 CFR Part 13 Informal Complaints Alleging Violations of Grant Assurance Obligations and*

*Surplus Property Deed Restrictions* (CGL 2014-01). Per FAA Order 5190.6B, at ¶5.13, and CGL 2014-01, Section IV.A., the FAA's Southern Region has taken appropriate action to bring the County into voluntary compliance by providing a written and dated request. CGL 2014-01 refers to this status as "Conditional Compliance."

Should the County fail to implement the requested corrective action in a timely manner, the FAA's Southern Region may recommend the County be placed in a status of "Pending Noncompliance" and refer this matter to the FAA's Office of Airport Compliance and Management Analysis where it may be investigated under 14 CFR part 16, *Rules of Practice for Federally-Assisted Airport Enforcement Proceedings*. Please be aware that a formal determination of noncompliance may result in the FAA withholding grants issued under the Airport Improvement Program (AIP).

As stated in our March 17 letter, the region's review is a preliminary determination and not a final agency decision subject to judicial review. If the County believes that this office has erred, the County may contact Ms. Kathleen Brockman, in the Office of Airport Compliance and Management Analysis, at (202) 267-3389, or Mr. Thomas Vick, in the Office of Airport Compliance and Management Analysis, at (202) 267-8725.

If I can be of any assistance or answer any questions that you might have, please do not hesitate to contact me at (404) 305-6739 or [deandra.brooks@faa.gov](mailto:deandra.brooks@faa.gov).

Sincerely,

A handwritten signature in blue ink that reads "Deandra Brooks". The signature is fluid and cursive, with the first name "Deandra" and the last name "Brooks" clearly legible.

Deandra Brooks  
Airport Compliance Specialist

Encl.

cc: Mr. Maverick Douglas, Manager, Safety and Standards Branch, Southern Region  
Airports Division  
Orlando Airports District Office  
Office of Airport Compliance and Management Analysis



Federal Aviation Administration

April 12, 2017

TO:

FAA Airports Southern Region
Attn: Deandra Brooks
1701 Columbia Ave.
College Park, GA 30337
Deandra.Brooks@faa.gov

RE: (See attached Table 1 for referenced case(s))
\*\*FINAL DETERMINATION\*\*

Table 1 - Letter Referenced Case(s)

Table with 7 columns: ASN, Prior ASN, Location, Latitude (NAD83), Longitude (NAD83), AGL (Feet), AMSL (Feet). Row 1: 2017-ASO-14-NRA, 2001-ASO-3101-NRA, WEST PALM BEACH, FL, 26-35-35.00N, 80-05-06.23W, 0, 18

Description: In 1973, the County enacted, and the FAA accepted, a restriction on jet aircraft and all aircraft weighing in excess of 12,500 pounds engaged in aircraft cargo operations. It does not appear that the FAA has ever analyzed this restriction. Based on the facts provided by the parties, we have preliminarily concluded that the restriction on jet aircraft, as implement, may be unjustly discriminatory and not consistent with the County's federal obligations. At this time, it is appropriate for the FAA's Southern Region Airports Division, in coordination with the Air Traffic Organization, to assess whether continuation of the restriction at LNA is necessary for airspace safety and/or efficiency.

We do not object with conditions to the construction described in this proposal provided:

You comply with the requirements set forth in FAA Advisory Circular 150/5370-2, "Operational Safety on Airports During Construction."

- . Local Air Traffic Manager or ATCT representative is coordinated with, invited to all meetings and any/all concerns are addressed / resolved.
. Local Tech Ops (SCC) representative is coordinated with, invited to all meetings and any/all concerns are addressed / resolved.
. Airport sponsor is coordinated with, invited to all meetings and any/all concerns are addressed / resolved.
. Neither permanent structure(s) nor construction equipment can shadow or block view of any airport movement area from ATCT in any way.
. Flight Standards does not object to turbojet operations at LNA, provided they can be conducted safely. The primary individual that makes the safety call is the pilot. Flight Standards offers the following concern: The taxiway weight bearing capacity is not accurately communicated to pilots. The taxiway and ramp weight bearing capacity is significantly less than the runway weight bearing capacity. Ramp and taxiway bearing capacity is not normally available to pilots. We recommend the airport be viewed as a single unit. As a result, the runway weight bearing capacity should be revised to reflect the maximum taxiway weight bearing capacity for any single route to the ramp. In addition, this route should be published and otherwise made

available to pilots. If there are other routes of even lesser weight bearing capacity, this information should be communicated. Published: Jet A fuel is available at LNA. The availability of Jet A fuel is misleading and seems to conflict with the jet aircraft prohibition.

. IFP input will be limited to any impacts to IFPs at the airport.

This determination is based, in part, on the foregoing description, which includes specific coordinates, heights, frequencies and power. Any change in coordinates, heights, frequencies or use of greater power will void this determination. Any future construction or alteration, including increases in heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground. In making this determination, the FAA has considered matters such as the effect the proposal would have on the existing airspace structure and projected programs of the FAA, the effects it would have on the safety of persons and property on the ground, and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal.

This determination does not include any environmental analysis or environmental approval for this proposal. All local and state requirements and/or permits must be obtained prior to construction of this proposal. It does not include approval of any lease, does not release any surplus or grant agreement acquired airport property, nor does it relieve the airport owner or the proponent of compliance with FAR, Part 155, or any other law, ordinance, or regulation of federal, state, or local government body or organization.

This determination does not constitute FAA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground.

In making this determination, the FAA has considered matters such as the effects the proposal would have on existing or planned traffic patterns of neighboring airports, the effects it would have on the existing airspace structure and projected programs of the FAA, the effects it would have on the safety of persons and property on the ground, and the effects that existing or proposed manmade objects (on file with the FAA), and known natural objects within the affected area would have on the airport proposal.

If you have any questions concerning this determination contact Miguel Martinez (407) 812-6331 [miguel.martinez@faa.gov](mailto:miguel.martinez@faa.gov).

Miguel Martinez  
Specialist  
Land-Use Manager, FDOT/Central Office