

# Bickerstaff Heath Delgado Acosta LLP

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September 1, 2010

*VIA U.S. MAIL, CERTIFIED,  
RETURN RECEIPT REQUESTED*

Mr. Tom Thompson

RE: Central Texas Airport

Dear Mr. Thompson:

Bastrop County (the "County") acknowledges the receipt of your letter dated August 25, 2010 relating to the County's 381 Agreement regarding the Central Texas Airport. The County has advised me that it was received on August 30, 2010. I have been asked to respond.

In your letter, you ask the County to respond to four items, each of which contains a lengthy narrative and a request the County "indicate in writing" to a statement you pose. You ask the County to respond to provide you with information, which for the most part does not currently exist in the County's records. Except as specifically noted, the County does not have the information in its files. Your request would require the County to collect and assemble information in such a manner that would be responsive to your requests.

I have set out each of your requests and followed each request with the County's response.

- 1) **Type and size of aircraft permitted to use the CTA:** In Section I, Definitions, (b), second paragraph, "'Airport' shall mean a general aviation airport designed, constructed and operated so as not to be required to obtain an Airport Operating Certificate under 14 C.F.R., Part 139, and that at no time will serve any scheduled passenger-carrying operations of an air carrier designed for more than 9 passenger seats or unscheduled passenger-carrying operations of an air carrier operating aircraft designed for 31 or more passenger seats." This statement makes another similar appearance on page 12, (d) "Airport Design, Construction, and Operation Covenants and Agreements." Assurances have been given that this covenant prohibits large cargo-carrying variants of "passenger" aircraft of up to 100 tons, from using the CTA. The AOC CFR part 139 makes no mention of "cargo" aircraft, only "air carriers," which specifies passenger operations. As you may know, airframes are constructed as ordered by the customer, and "passenger"

aircraft are modified extensively for cargo operations, and only carry a minimal aircrew. The runway of CTA is 7200' long. The old Robert Mueller Airport had a main runway of 7269' and could handle large aircraft of 100 tons, both passenger and cargo variants. Additionally, as you may know, Carpenter & Associates has published on his website the intention of making the CTA an International Port of Entry, suitable for the financial advantage of international cargo and passenger operations. **Please indicate in writing the specific prohibitions within the 381, or AOC 14 CFR, Part 139, that restrict the above mentioned aircraft type or size.**

**Response:**

The only documentation that the County has relating to this request are the requirements in the County's 381 Agreement for the Central Texas Airport. The portions of the 381 Agreement relating to the types of aircraft are:

Section 1(b). "Airport" means (i) an area used or intended for use for the landing and takeoff of aircraft, (ii) any appurtenant areas used or intended for use for airport buildings or other airport facilities or right-of-way (iii) any airport buildings or facilities located on an appurtenant area and (iv) any related operations, business and purposes. Provided, however, for purposes of this Agreement, the term "Airport" shall mean a general aviation airport designed, constructed and operated so as not to be required to obtain an Airport Operating Certificate under 14 C.F.R. Part 139, and that at no time will serve any scheduled passenger-carrying operations of an air carrier designed for more than 9 passenger seats or unscheduled passenger-carrying operations of an air carrier operating aircraft designed for 31 or more passenger seats.

Section 9(d). Airport, Design, Construction and Operation Covenants and Agreements. Company covenants and agrees that the Airport Improvements, which shall be located on the "Airport Property", as such property is more specifically described on Exhibit "A", shall be designed, constructed and operated as an Airport as defined in Section 1(b) of this Agreement so as not to be subject to the Airport Operating Certificate requirements of 14 C.F.R. Part 139. Further, Company covenants and agrees that it will not enter into any agreements, covenants, assurances or conditions such as agreements for state or federal funding, that may directly or indirectly require Company to design, construct or operate the Airport Improvements in a manner that requires such Airport Improvements to be open to scheduled passenger-carrying operations of an air carrier operating aircraft designed for more than 9 passenger seats or unscheduled passenger-carrying operations of an air carrier operating aircraft designed for 31 or more passenger seats. Company hereby declares that the Airport Property shall be subject to the Company's covenants and agreements under this subsection (d) which shall run with the Airport Property and shall be binding upon all parties

having right, title, or interest in or to such portion of the Airport Property or any part, their heirs, successors, and assigns and the covenants and agreements as they effect the Airport Property shall remain in effect in perpetuity. The County and the Company agree to enter into a written instrument suitable for recording in the Office of Public Records of Bastrop County which shall memorialize the restrictions contained in this Section 9(d) and provide that they shall run with the land.

The County does not have any records relating to AOC 14 CFR, Part 139.

- 2) **Effects of the required non-compliance to AOC 14 CFR, Part 139:** The Airport Operating Certification stipulates operational, safety, environmental and other necessary controls over passenger-carrier airports that the CTA will not have to follow. These rules protect the passengers, but also the health, safety, and welfare of the surrounding population, which in this largely suburban area, is significant. If the CTA is allowed to operate without these rules and regulations, then the surrounds are imperiled by this facility. **Please indicate in writing the specific Federal Aviation Administration operational rules and regulations that this facility must follow to ensure the same protections granted by AOC 14 CFR Part 139, and how these will be enforced by Bastrop County.**

**Response:**

The County does not have any records responsive to this request.

- 3) **Airport Compatibility Zone:** As you may know, areas around airports must comply with the "Airport Compatibility Guidelines" of the FAA FAR Part 77 and TxDOT. In the case of CTA, the ACZ would cover an area 11.36 miles long, three miles wide, covering almost 22,000 acres, approximately 2200 of it being within Eastern Travis County, and wholly or partially encompassing 21 subdivisions and the Hyatt Regency/Wolfdancer/McKinney Roughs recreational areas. The Guidelines define areas that must comply with rules governing the height of improvements and trees, character, use, and marketability of these properties. **The ACZ and all its rules may be avoided if the facility has a runway of 3200' or less.** Regardless of the glowing accounts given by Carpenter & Associates, properties within these zones suffer reduced valuation because of noise, pollution, traffic, and danger from low-flying large aircraft. The Representative DNL Noise Contour study offered by Carpenter & Associates was based on Wiley Post Master Plan, which is of an airport outside of Oklahoma City, and with topography that bears absolutely no resemblance to the Colorado River Basin, which will exacerbate and intensify DNL to the north and south flight-paths which are heavily populated. Additionally, the DNL contours are much smaller than Robert Mueller DNL contours, which as stated before, have the same runway capability. **The Texas Airport Zoning Act, Chapter 241 of the**

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Texas Local Government Code, enables a city, a county, or combination of cities and/or counties to adopt, administer, and enforce zoning regulations. In many legal actions, enforcing the ACZ has been considered a "taking," and has been met with vigorous litigation, as it will be in this case, if this facility is not restricted to the shorter runway, as mentioned above. The City of Austin spent approximately \$93,000,000 on acquisition of property within the 65 DNL contours of ABIA. **Please indicate in writing when and how the Commissioners Court plans to implement the ACZ, contact the affected property owners, and provide funding for expected litigation before this facility begins operation.**

**Response:**

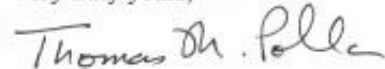
The County does not have any records that are responsive to this request.

- 4) **Security concerns:** On the CTA/GCC website, Carpenter & Associates has touted the advantage of having private security contractors instead of TSA representatives on site enforcing FAA regulations. We all know how well "private security" worked on February 18 of this year, when Joe Stack flew his small aircraft from Georgetown Municipal Airport, and dived into one of the Echelon buildings in Austin. A cargo-carrying 737 fully loaded with fuel and carrying only three unarmed aircrew will make a much larger hole in a Federal or State office building in Austin, and would be a great embarrassment to the citizens of Bastrop County if it were to occur. **Please indicate in writing how the Commissioners Court, Bastrop County Sheriff's Department or the City of Bastrop Police Department will have oversight and enforcement within the CTA property, the ACA, and how it will be publicly funded.**

**Response:**

The County does not have any records that are responsive to this request.

Very truly yours,



Thomas M. Pollan

cc: Hon, Ronnie McDonald, County Judge  
County Commissioners  
Bastrop County Commissioners Court