

Tom Pollan - RE: Bastrop Airport 381 Agreement

From: "James R. Carpenter" <jim@carpenteraustin.com>
To: "Kyle. Jerry" <JerryKyle@andrewskurth.com>, <Garry@spubfin.com>, <plindner@davidsontrouilo.com>, "Tom Pollan" <tpollan@bickerstaff.com>
Date: 5/11/2010 7:06 PM
Subject: RE: Bastrop Airport 381 Agreement
CC: "Jerry Hooper" <jerry@hooperconsulting.com>, "Geoffrey S. Connor" <geoff.connor@connordemond.com>, "John Brusniak Jr." <john@txtax.com>, "Judge Ronnie McDonald" <gayle.wilhelm@co.bastrop.tx.us>, "Ronnie Moore" <ronnie.moore@co.bastrop.tx.us>, "Lee Dildy" <lee.dildy@co.bastrop.tx.us>, "Ronnie McDonald" <ronnie.mcdonald@co.bastrop.tx.us>, "Walter Tacquard" <walter@carpenteraustin.com>

Jerry;

The funding model for CTA is driven on aggressive recruitment and expansion of taxable property to be situated on the property so that CTA can receive its essential funding, as projected. We cannot leave this critically important matter unmanaged, so we have established an agreement with Ret. Lt. Col. Hooper and John Brusniak's firm to head up a Property Tax Resolution Team for CTA. We are going to use this Team to help all of our taxable clients and customers properly value and render their real property and business/personal property with the Bastrop County Central Appraisal District. We are going to assist the Appraisal District by providing all of the necessary records needed to determine the appropriate valuation of all taxable property; this is our lifeblood. We want CTA's customers and clients to receive the tax savings and benefits that federal and Texas state law allows them without having to suffer an adversarial methodology for valuation and collection that often results in overtaxation or litigation. Inappropriate tax treatment is a widespread policy throughout the country and we have the opportunity to set it up correctly and administer it in a fair and predictable manner for both the taxpayer and the taxing districts. The reverse benefit of this approach from CTA's perspective is that it can monitor and insure itself that it is receiving all of the allowable tax revenues that it is entitled to. The net result of this management effort and expense, is that the other taxing districts will benefit by receiving their respective maximum allocations as well; this includes Bastrop County, Elgin ISD and Bastrop County ESD #1. If CTA is allowed to utilize a municipal district then an additional layer of tax would be overlaid only on the CTA properties and added to the Central Appraisal District's list of taxing entities.

Currently under the Texas Property Tax System, it is the responsibility of the County Central Appraisal District to tax property pursuant to its situs on January 1st of each year. The Real Property, includes the land, improvements and appurtenances to the land. Their valuations will be determined from the descriptions contained within the deeds and documents upon purchase. The Business Personal Property, by definition not permanently affixed to the real estate, would include such things as aircraft, tools and equipment used in the maintenance and operation of the aircraft, and office furniture, fixtures and any inventory situated at the airport. The situs is determined by the filing of a property tax rendition, which is required by the Texas Property Tax Code. This document is filed with the Central Appraisal District office and is the responsibility of the Central Appraisal District, Chief Appraiser to

identify the appropriate districts in which the property is located. Upon the completion of the appraisal process, the Chief Appraiser is required to certify the values to the various taxing districts for collection. In the case of the County, the County Tax Assessor Collector is responsible for the collection of the taxes and the identification of any allocations of taxes received/paid to the required districts.

The aircraft will be taxed pursuant to the Texas Property Tax Code, which deals with Business and Commercial Aircraft and is specific in how the Central Appraisal District will ascertain the value of each individual aircraft. To sum it up, the County has no specific responsibility in the taxation process until it has collected its allocation and then will distribute CTA's share per the 381 Agreement.

I have intentionally globally communicated this to everyone in the hope that this is the final outstanding issue so that the final form of the Agreement can be completed this week, and set the following week for approval at the Bastrop County Commissioners Court meeting on May 24th. If this is not an achievable goal I need to know that fact as soon as possible.

Best regards;

Jim Carpenter
Managing Partner



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-----Original Message-----

From: Kyle, Jerry [mailto:JerryKyle@andrewskurth.com]
Sent: Tuesday, May 11, 2010 4:53 PM
To: jim@carpenteraustin.com; Garry@spubfin.com; plindner@davidsontrouilo.com;
walter@carpenteraustin.com
Subject: Fw: Bastrop Airport 381 Agreement

Jim, Walter, Garry, and Patrick, please see Tom's question (below). I don't think the concern should be difficult to address and I will give this some thought, but others in the group (Jerry Hooper?) may already have a good idea how to address the concern.

Please let me know if you would like to discuss. Thanks.

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----- Original Message -----

From: Tom Pollan <tpollan@bickerstaff.com>
To: Kyle, Jerry
Cc: Manuel Mendez <mmendez@bickerstaff.com>
Sent: Tue May 11 16:40:06 2010
Subject: Bastrop Airport 381 Agreement

Jerry:

We met with the Bastrop County working group today. An issue has arisen that we need you and your client to help us with. As we have previously discussed, the County wants to make payments only after taxes have been collected. The current definition in the draft agreement is as follows:

(gg) "Taxable Property" means all taxable real and personal property (including (1) aircraft, (2) facilities and equipment used to repair, maintain, operate, service, equip and improve aircraft or to support other aviation-related activities and (3) other business use property) located in the Project which is subject to a levy of Regular Ad Valorem Taxes by County.

For real property in the area identified in the agreement there is no problem.

For installations in the defined area, there should be no real problem with personal property used to service the aircraft.

The problem is with the aircraft. How will the individual aircraft taxes be calculated and how will the County know that a payment is made that is credited to the airport. At an early meeting, your clients went

over how the tax would be imposed based on the amount of time the aircraft was at the airport. We need to know how to track payments so the proper amount can be paid to CTA. This may need to be included in the Agreement.

Any thoughts?

Also, for future drafts of the agreement, I suggest that you and I provide each other with a Word version of the drafts we send each other in addition to the PDF and Redlined PDF.

Thanks,
Tom

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