



# City of Lawrence

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## CITY COMMISSION

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July 20, 2009

Nicoletta S. Oliver  
Airports Compliance Specialist  
U. S. Department of Transportation  
Federal Aviation Administration  
901 Locust  
Kansas City, MO 64106-2325

RE: Lawrence Municipal Airport, Lawrence, Kansas  
Allegations of Violations of Grant Assurances

Dear Ms. Oliver:

This correspondence is in response to your letter of June 18, 2009 requesting a written reply to a complaint from Mr. William McCauley alleging possible grant assurance violations regarding unjust economic discrimination and exclusive rights by the City of Lawrence. The City denies it violated Assurances 22 and 23 in its review of Mr. McCauley's skydiving business proposal.

Mr. McCauley's first contact with the Lawrence Aviation Advisory Board was in January 2009 where he sat as an observer with an interest in developing a potential business at the airport; then in March 2009 he introduced himself and his company's business as aerial photography. Only later did we discover that Mr. McCauley's interest was to develop a skydiving business.

The City of Lawrence and the Lawrence Aviation Advisory Board have established minimum standards for the development of a business at the airport. Those standards were approved in November 2004 and were reviewed by the FAA to ensure compliance with FAA rules/guidelines. Those standards are available to the public on the City's website (enclosed).

Mr. McCauley's proposal, as submitted, failed to comply with the Airport's Minimum Standards in a number of important respects. It did not provide evidence that Mr. McCauley had the requisite forms of insurance required in Paragraph I.8. (Insurance). The City requires all businesses that locate on airport property to carry a minimum Comprehensive General Liability coverage of \$1 million, Comprehensive Vehicle Liability of \$500,000/person, Aircraft and Hanger Liability, if applicable. Mr. McCauley only provided a policy of \$50,000 Combined Bodily Injury



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and Property Damage. Mr. McCauley contended that a proposed waiver eliminates all liability. Waivers executed by participants are not an acceptable replacement for insurance.

Mr. McCauley did not provide sufficient information regarding the aircraft to be used in the operation thereby preventing the City from evaluating the operation's compliance with paragraph I.2. (Aircraft) of the Minimum Standards. Mr. McCauley alluded to a turbine aircraft which implies the potential for jumps at elevations of 13,000 feet or greater. Referencing turbine aircraft also implies that the proposal is not a "club" operation but may hold 16 or more jumpers. Skydiving operations of this size raise additional issues of safety for the skydive operations and aircraft.

Mr. McCauley did not demonstrate that the operation's personnel met the requirements of the Minimum Standards. He stated, "Employees are not a normal part of this type of business due to liability issues." Mr. McCauley is not licensed as a S&TA (Safety & Training Advisor), nor is he a licensed pilot. Mr. McCauley did not know who his pilot would be.

Mr. McCauley's proposal omitted other material information, leaving the Airport Advisory Board and the City to seriously question Mr. McCauley's ability and capacity to undertake the proposed operation and skydiving activities. The financial plan submitted was insufficient for the City to evaluate whether his proposal was a viable business or not. Start-up costs, operating expenses, employee costs, insurance and marketing costs were unknown and to be determined. There was insufficient detail concerning the operations, including: the facility, equipment, and technology requirements, labor requirements, training, compensation, inventory management, operation methods, start up schedule, capital equipment and budgets. Moreover, Mr. McCauley has no previous experiencing running a commercial skydiving operation, or any other business operation. Mr. McCauley's associate, Mr. Altman, is a novice skydiver.

Mr. McCauley alleges that minimum standards are being used in an unjust and discriminatory fashion by requiring him to have a building or leased space in place before he can conduct his aeronautical activity. His proposal states, however, that "the Kansas Skydive Center proposes... to build their facilities a 70 x 100 ft. hanger with additional 20 x 50 ft. offices and appropriate tarmac and parking lot... at the approval of the City Planning Board and Lawrence City Commission." He proposed to construct facilities but then provided no plans for the City to evaluate.

The City of Lawrence, through its police powers, has adopted zoning regulations for all properties within the City limits. All the airport property is within the City limits and is zoned. Currently the Airport is zoned GPI (General Public and Institutional). The GPI district allows recreational facility uses; however, skydiving operations require a special use permit. Mr. McCauley has not made application for zoning, site plan, plat, layout or building permit. Therefore, the operation did not have the required zoning approval to locate at the Airport.

In addition to the incompleteness of his proposal and the non-compliance with the City's zoning regulations, the City had concerns about whether Mr. McCauley's proposed skydiving operation was compatible with the safe operation of the Airport and the civil aviation needs of the public.

Lawrence Municipal Airport reports more than 32,000 flight operations annually (involving rotor, single, twin and business jet) and has significant training operations. The Airport conducts more

than 2,000 business jet operations annually, including limited international operations. Kansas City Flight Standards office advised they did not have any recommended areas in the airspace around the Lawrence Municipal Airport for skydiving due to the proximity of the Kansas City and Topeka airspace zones.

The Lawrence Airport is located in Class "E" airspace - meaning non-controlled. It is transition airspace. It is close to the Kansas City Class "B" airspace and inside the mode C ring. Aircraft approaching Kansas City must have clearance to enter Class B airspace. Aircraft flying through Lawrence airspace are already talking to a controller and not monitoring the Lawrence advisory frequency. Aircraft departing Kansas City usually remain on departure frequency until clear of the Class B airspace. Therefore, pilots approaching Lawrence only have two to three minutes before reaching the airport to communicate intentions, pick up the weather, do the pre-landing check list, while looking for other aircraft. There is additional potential for conflicts when adding aircraft from Topeka Forbes, arrivals into Kansas City International Airport (MCI) and Charles B. Wheeler Downtown Airport (MKC) being brought down for approaches, aircraft practicing instrument approaches, and normal activity into Lawrence. Along with the traffic, controllers, and frequencies pilots could be listening to Approach/Departure, LWC 123.00, ASOS 121.225, Vinland (K64) 122.9, and Center. When a skydiving operation prepares for jumpers away they give a warning to ATC and the local CTAF. Aircraft in the area wanting to know their location will often get no response since the jump aircraft has switched over to the other frequency. Skydiving operations at Lawrence would put an unnecessary burden on controllers and pilots. It would be critical that different controllers communicate accurately and quickly with each other and aircraft to avoid conflicts --keeping in mind they have no authority or control over the skydive aircraft since their operations are outside the controlled airspace.

The City was not the only entity that had safety concerns about proposed skydiving operations at the Airport. The City conferred with a number of officials in FAA after Mr. McCauley shared his general plans. FAA Central Region Administrator, Chris Blum, and FAA's Kansas Flight Standards District Office, Felix Loco, both noted the Airport's high volume and types of aeronautical activities, expressing concern about the accommodating all of the operations.

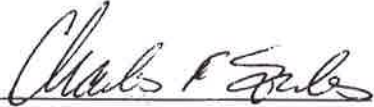
Ed Chambers, FAA Central Region Administrator also informed the City that an airport does not have to lease property to any entity that the Airport deems unsuitable or unstable to complete the Airport lease obligations.

With respect to compatibility with other business at the Airport, the City received concerns from three established businesses stating that skydiving operations would negatively affect their businesses. Life Star of Kansas, an emergency services provider, expressed relocating their operation to another location if skydiving operations were approved. The Life Star operation is an important safety/emergency responder for the entire community of Lawrence and Douglas County.

The City has not identified, nor studied, if there might be a specific area at the airport that could accommodate skydiving. Typically the business prospect would provide a proposal for the City to review. The City airport should not be expected to expend resources (financial or otherwise) for a "for-profit" business. However, the City made inquiries to FAA Standards District Office and Kansas City Airspace Office and was provided the guidance that the Lawrence airspace has too many conflicts with air traffic to safely permit skydiving activities.

Finally, the City of Lawrence welcomes development and new business opportunities. The skydiving operation proposed did not provide sufficient information to address operational/safety concerns or provide adequate information to evaluate the business.

Sincerely,



Charles F. Soules, P.E.  
Director of Public Works  
Airport Manager



Toni R. Wheeler  
Director of Legal Services

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Enclosure