

Date: February 21, 2023

FAA Part 16 Docket Clerk, AGC-600
Federal Aviation Administration
800 Independence Avenue SW,
Washington, DC 20591
9-AWA-AGC-Part-16@faa.gov

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PART 16 DOCKETS

Aircraft Owners and Pilots Association, *et. al* v. County of Santa Clara, California
FAA Docket No. 16-22-08

COMPLAINANTS' OPPOSITION
TO RESPONDENT COUNTY OF SANTA CLARA'S
MOTION FOR EXTENSION OF TIME TO FILE ANSWER

Complainants respectfully oppose Respondent Santa Clara County's Motion for Extension of Time to Answer the Complaint. In opposition, Complainants state as follows:

1. Respondent has already delayed the filing of its Answer by 60 days, through obtaining a 30 day extension of time to respond to the Complaint until December 29, 2022, and subsequently filing a Motion to Dismiss and Motion for Summary Judgment which resulted in addition of another 30 days to the deadline to file an Answer.
2. Respondent has not demonstrated inability to prepare an adequate pleading by the deadline of February 28. It has more than 100 attorneys on its staff, Part 16 timelines are clearly stated in the Code of Federal Regulations, and any failure to properly plan an Answer to the Complaint it invited through willful noncompliance is not a reason to grant an extension.
3. Respondent's claim that a filing delay is needed to allow additional time to progress negotiations related to the February 8, 2023, Memorandum of Understanding ("MOU") between Respondent and the FAA is made in bad faith, flying in the face of the MOU's

plain language, and Respondent did not address why it waited ten days after the MOU was signed to file its Motion to Extend.

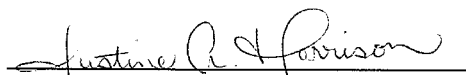
4. Section 5 of the MOU states, “nothing in this MOU limits the FAA’s ability to process, investigate, and/or adjudicate any Part 16 complaint or investigation raising allegations substantially similar to those in the Part 13 Notice, including the AOPA Complaint, to correct any violations alleged therein, or to comply with any order issued by a court of competent jurisdiction relating to such allegations.”
5. Section 1(b)(iv) of the MOU states, “The FAA’s invitation to the County to participate in the cooperative demonstration project and the County’s potential participation in the cooperative demonstration project do not create an official FAA endorsement of the County’s prohibition on the sale of leaded avgas at County Airports.”
6. Section 1(b)(iii) of the MOU further demonstrates the lack of connection between the MOU and this Part 16 Complaint, stating “the FAA has separated its management of the cooperative demonstration project from its adjudication of the AOPA Complaint.”
7. Respondent’s timing in sending its Motion to Extend at 2:30pm Eastern on a Friday before a three-day holiday weekend is consistent with its ongoing delay tactics. This behavior should not be rewarded and demonstrates contempt for Part 16’s purpose to provide an efficient and conclusive resolution process.
8. Complainants filed a Part 16 Complaint due to Respondent’s prohibition of 100LL fueling at Reid-Hillview and San Martin airports that began January 1, 2022, and fourteen months later, the prohibition remains current and ongoing harm continues unabated.
9. Any further extension is unreasonable due to ongoing harm to Complainants, and 45 days is more than twice the original period of time specified in the regulations to file an Answer.

10. Respondent's negotiations with the FAA about possible future participation in a demonstration program involving fuel that is not currently available does not moot the issue of whether access to 100LL has been unlawfully denied for the past fourteen months and is presently unlawfully denied.
11. Learning how to transition to 100 octane unleaded fuels is not a bar to Respondent presently providing services that afford reasonable access to 100LL fuel. Present access to 100LL is imminently possible, but willfully prohibited by Respondent. As established in previously submitted affidavits, tenants that previously provided 100LL are willing and able to reestablish 100LL fueling at Respondent's airports and tenants who desire to self-fuel with 100LL at Respondent's airports still desire such self-fueling.
12. The baseless assertion that the ongoing "Conditions have had no significant effect on operations at either of the County Airports" is disproven by the facts in numerous Affidavits that Complainants have provided in this proceeding to date.
13. Respondent's statement that "The Complaint concerns conditions that have been in effect for over a year," proves the point that Respondent has been in non-compliance for more than a year and indicates a willful disregard for timely adjudication and correction of its noncompliance.
14. Respondent appears to have told the truth by accident, stating it seeks a "delay" in paragraph 5 of its Motion rather than an extension of time.
15. Respondent's strategy to "extend and pretend" the issues will disappear appears to have shifted to "delay and pray" upon the FAA to postpone the inevitable, now that it must truthfully Answer the Complaint.

16. Respondent has not shown good cause, but it has shown use of means that have no substantial purpose other than to delay or prolong this Part 16 proceeding.

For the above stated reasons, Complainants request that the FAA deny Respondent Santa Clara County's Motion for Extension of Time to Answer the Complaint.

Respectfully submitted,



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Certificate of Service

I hereby certify that I have this day caused the foregoing Complainants' Opposition To Respondent County of Santa Clara's Motion for Extension of Time to File Answer to be served by electronic mail:

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Dated this 21st day of February, 2023.



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From: Harrison, Justine <justine.harrison@aopa.org>
Sent: Tuesday, February 21, 2023 2:22 PM
To: 9-AWA-AGC-Part-16 (FAA)
Cc: Yan, Jerett; james.williams@cco.sccgov.org
Subject: FAA Docket No. 16-22-08 - AIRCRAFT OWNERS AND PILOTS ASSOCIATION, ET AL v. COUNTY OF SANTA CLARA, CALIFORNIA
Attachments: 2023-0221 Complainants' Opposition to Respondent's Motion for Extension of Time to File An Answer.pdf
Follow Up Flag: Follow up
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Dear Part 16 Docket Clerk,

Attached please find Complainants' submittal in response to the recent Motion filed by Santa Clara County.

Sincerely,

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