

Chapter 4 - Airport Real Estate

Introduction

In an attempt to increase an airport's capacity and enable an airport to grow, land use planning and land acquisition has become an important consideration in an airport's operation within a community. Failure to control the uses of land on and around an airport can reduce an airport's ability to expand. Also, with the ever increasing issue of airport noise, land acquisition is often the only means an airport can use to control the surrounding land. This chapter will discuss general issues surrounding the controls available to an airport sponsor to assist them in controlling the use of land on the airport, as well as land immediately surrounding the airport.

Leases

Contracts, or binding agreements, that give individuals or entities the right to use real estate, equipment, or facilities for a specified period of time and for a specified rent are better known as leases. The types of leases at general aviation airports are all different and are usually tailored to the needs of the specific airport. As per the Louisiana Revised Statutes, Title 2, all proposed leases must be reviewed and approved by the LA DOTD Aviation Section prior to their execution.

Lease Agreements

The Louisiana Revised Statutes 2:135.1, states that airport districts, airport authorities, and other political subdivisions, including the New Orleans Aviation Board, which establish or operate airports or landing fields or which acquire or set apart immovable property for such purpose may: Lease to any person, as defined in this Title, areas for operations space, improvements, including industrial development, and equipment on such airports or landing fields; provided that all leases of land, improvements, or equipment, except as hereinafter provided, shall be by public bid under the provisions of the Public Bid Law, R.S. 38:2181 et seq., or under the provisions on leases of public lands, R.S. 41:1211 et seq.. This advertisement must be in the official journal at least once a week for three consecutive weeks. However, this requirement only applies to airports not eligible to receive federal funding. Title 2 also states, "Notwithstanding any provision of law to the contrary and specifically any provision contained in Paragraph (3) of this Subsection, the governing authority of any airport located in this state which is eligible to receive funding from the Federal Aviation Administration is authorized to lease to any person, as defined in this Title, land, areas for operations space, improvements, including industrial development, and equipment on airports or landing fields provided that any such governing authorities leasing land, improvements, or equipment, except as hereinafter provided, shall charge fair and reasonable prices for airport properties as determined by appraisals and fair market value comparisons in accordance with Federal Aviation Administration guidelines. The appraisals and fair market value comparisons required by this Paragraph shall be conducted and paid for by the governing

authority of the airport.” If an airport sponsor chooses to, or is required to advertise, then the advertisement for the land to be leased shall include the following information:

- Description of the property to be Leased
- Time when bids are to be received
- Short summary of the Lease terms
- Lease conditions
- Purposes of the Lease

The public bids will be secret, sealed bids, and shall be publicly opened by the **lessor** [person(s) awarding the Lease], and be awarded to the highest bid submitted that will give the greatest benefits to the public in services and financial return. The lessor has the right to reject all bids. All Leases are to be signed by the lessor and copies shall be furnished as follows:

- One copy shall be given to the **lessee** (person entering into the Lease);
- One copy shall be recorded in the **Conveyance Records** of each parish in which the land is located;
- One copy shall be sent to the **Louisiana Department of Transportation and Development, Aviation Section**; and
- One copy shall be kept in the **lessor’s records**.

All of the above Leases shall be for a period of time that is consistent with Louisiana R.S. 2:135.1.

If during the primary term of the Lease the lessee constructs, at its expense, permanent improvements on the land over certain dollar amounts, then the lessor may extend the lease. The amounts and extension periods shall also be consistent with Louisiana R.S. 2:135.1.

When private property bordering an airport is acquired by a public body, as described in the Louisiana Revised Statutes Section 133, Leases may be entered into between the owner of the airport and the owner of this property without advertising or competitive bidding. The terms of the Lease agreements shall be determined by the **appraised value** of the land and /or buildings And shall be for a period of time of no more than 10 years.

Where the lessor has constructed or contemplates the construction of a building or other improvements in order to expand the services of the airport, the lessor may execute a lease for a period not to exceed twenty-five years and provide for a monthly or annual rental, payable monthly or annually in advance, and advertise in accordance with Subsection A, such lease may provide for the option to renew on stipulated conditions, without further advertising or competitive bidding, for periods not to exceed an additional twenty-five years.

The lessor should include a reversion clause in the lease that requires any property built and/or any improvements to said leased property will become the property of the airport owner at the expiration of the term of the lease.

No municipality, parish, airport district, airport authority, or other political subdivision may grant a Lease of an entire airport. The public may not be deprived of its rightful, equal, uniform use of the airport or landing field unless it is determined to be in the interest of public safety.

Lease Terms And Standards

The airport sponsor should include all items concerning the lessee's rights and the lessee's obligations upon entering into the lease. All conditions and standards concerning leasehold upkeep, utility payments, service charges, etc., whether the responsibility of the airport or of the lessee, should be clearly defined. All of the lease terms should be stated as simply as possible so everyone fully understands the lease conditions. City or parish attorneys should assist the airport sponsor with this process in assuring every condition, obligation, and right is listed in the lease as clearly as possible.

- Standards are policies developed by the owner requiring minimum performance from anyone who places improvements on or conducts activity on the airport.

An **example of a typical airport lease and operating agreement** can be located **on the enclosed CD. Chapter 2 - Airport Rules and Regulations**, includes more information on minimum standards for airports and writing and distributing these standards.

Land Acquisition

Airports often find it necessary to acquire land for airport operations, both for current and future airport purposes. The term airport purposes would include building areas, landing areas, runway protection zones, approach areas, areas for noise compatibility, and offsite areas required for airport utilities, such as sewerage, drainage, power, and obstruction lighting. According to the Federal Aviation Administration Order 5100.38C "Airport Improvement Program Handbook", future airport development is considered to be the development of a facility more than 5 years after acquiring the land. An airport sponsor may use the land acquisition in planning a new airport or in the development of an existing airport.

Land acquisition that is to be used for current airport development would be eligible for federal grants if the land being acquired is to be used for the following:

- Landing Areas (runways, taxiways, and associated safety areas, ramps, aprons, etc.).
- Airport Approach Areas (runway protection zones, approach and transitional zones, and horizontal zones).
- Building Area (airport terminal, administration buildings, hangars, equipment buildings, etc.).
- Navigational Aid Facilities (installation, operation, and maintenance of NAVAIDS).
- Airport Utilities (drainage, sewage, storm water runoff, utility lines, etc., that are located outside the airport boundaries).
- Airspace Conflicts.

Land acquisition that is to be used for future airport development must meet certain requirements in order to be eligible for federal grants. Requirements for land acquisition pertaining to eligibility for federal grants are as follows:

- There must be a valid aeronautical need for the land;
- The site selected has been approved by the FAA;
- Airspace clearance for the site has been granted; and
- There is an approved airport layout plan.

Acquiring land that is to be used only for purposes of land use and noise compatibility is eligible for federal grants when the land is to be used as follows:

- An element of an FAA approved noise compatibility program;
- Reimbursement for noise land acquired through the fiscal year 1986 or as a part of a noise compatibility project included in a multi-year grant entered into prior to 1987;
- A requirement for a mitigation measure in relation to an airport development project.

In addition to the above requirements, all real property land acquisition that is to be eligible for federal grants must be accompanied by a real estate appraisal. For further guidance, refer to FAA Order 5100.38C, Chapter 7 and Advisory Circular (AC) 150/5100-10A.

Release of Airport Property

In dealing with the release or transference of airport property, there may be different requirements depending on the property type. The primary concern is how the release of the property is affected by the airport sponsor's obligations. Airport owners that plan to sell a portion of airport property should first contact their FAA Program Manager. The program manager will most likely involve the FAA compliance specialist to determine the extent of Federal Obligations associated with the tract of land in question.

The different types of land may include surplus property that has been transferred to the airport owner from the federal government. Release of surplus property has different requirements and must be handled differently than release of property that is not surplus property.

For guidance in dealing with the release of airport property, you should reference FAA Order 5190.6A – Airport Compliance Handbook. For guidance in dealing with surplus property, you should also reference Advisory Circular (AC) 150/5150-2B.

References

Federal Aviation Administration Order 5100.38C, "Airport Improvement Program (AIP) Handbook"

Federal Aviation Administration Advisory Circular AC 150/5100-10A, "Accounting Records Guide for Airport Aid Program Sponsors"

Louisiana Law Revised Statutes Title 2, "Aeronautics"

Federal Aviation Administration Order 5190.6A, "Airport Compliance Requirements"

Federal Aviation Administration Advisory Circular AC 150/5150-2B, "Federal Surplus Personal Property for Public Airport Purposes"