



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Avenue, SW
Washington, D.C. 20591

August 30, 2024

Dr. Douglas Haynes
CEO of DEHAS LTD, dba
Blue Ridge Nebula Starlines
Stu 82
Watkins, CO 80137

Jonathon R. Lubrano
Assistant Adams County Attorney
4430 S. Adams County Parkway
5th Floor, Suite C5000B
Brighton, CO 80601

Re: *Dr. Douglas Haynes v. Board of County Commissioners of Adams County, Colorado*, FAA
Docket No. 16-22-10

Dear Messrs. Haynes and Lubrano:

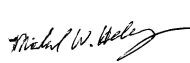
Enclosed is a copy of the determination of the Federal Aviation Administration (FAA) with respect to the above-referenced matter.

We find that the Board of County Commissioners of Adams County (County), sponsor and operator of Colorado Air and Space Port, is not currently in violation of its federal obligations regarding Grant Assurance 30, *Civil Rights* and Grant Assurance 22, *Economic Nondiscrimination*. We find that the County did not treat the Complainant differently than other subtenants and that it took reasonable actions in accordance with its minimum standards when it allowed its tenant, Windchaser to terminate the Complainant's rental agreement.

Accordingly, the above-referenced matter is dismissed.

The reasons for dismissal are set forth in the enclosed Director's Determination.

Sincerely,

 Digitally signed by
MICHAEL W HELVEY
Date: 2024.08.30
12:29:29 -04'00'

Michael Helvey
Director, Office of Airport Compliance
and Management Analysis

Enclosure

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC**

DR. DOUGLAS HAYNES

COMPLAINANT,

v.

**BOARD OF COUNTY COMMISSIONERS
OF ADAMS COUNTY, COLORADO**

RESPONDENT.



FAA Docket No. 16-22-10

DIRECTOR'S DETERMINATION

I. INTRODUCTION

This matter is before the Federal Aviation Administration (FAA) on the complaint filed on November 5, 2022, by Dr. Douglas Haynes (Complainant/Haynes) against the Board of County Commissioners of Adams County, Colorado (County/Respondent) under the *FAA's Rules of Practice for Federally Assisted Airport Enforcement Proceedings*, 14 CFR Part 16. The County is the sponsor of the Colorado Air and Space Port (CFO/ "CASP") (FAA Exhibit 1, Item 4, p. 1, para. 3).

Dr. Haynes filed this complaint alleging the County violated Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 30, *Civil Rights*, and Title VI of the Civil Rights Act of 1964, when the County: (1)(a) allowed Windchaser Hangars, LLC, (Windchaser) to terminate Dr. Haynes's T-hangar rental agreement and asserting different treatment based on his race; (1)(b) pressured Windchaser to terminate Dr. Haynes's T-hangar rental agreement in retaliation against Dr. Haynes for filing a Part 16 complaint docketed as FAA Docket No. 16-22-04¹;

¹ In the Complaint docketed as FAA Docket No. 16-22-04, Dr. Haynes alleged that the County violated Grant Assurance 30, *Civil Rights*, Title VI of the Civil Rights Act of 1964 ("Title VI"), and related laws when the County: (1) failed to provide him with suitable office space; (2) attempted to illegally tow his vehicles; (3) evicted him from his storage space; (4) hid his existence as a founding business at the airport; (5) restricted his access to taxiways and run-up areas; and (6) recommended that the FAA support rules that directly limited his ability to establish and grow his business. On June 9, 2022, the Director found no indication that the County violated Grant Assurance 30, Civil Rights or Title VI of the Civil Rights Act of 1964 ("Title VI"), including allegations of violations under the Disadvantaged Business Enterprise Program and 49 CFR Part 23 and 26. The Complaint was dismissed in its entirety as a matter of law (FAA Exhibit 1, Item 4, Ex. B). The Complainant also refers to prohibited discrimination on the basis of race, color, or national origin under the "Grant Assurance 20." However, the "Airport Rescue Grant Transmittal Letter" referred to by the Complainant is not germane to this Determination (FAA Exhibit 1, Item 2, p. 3; FAA Exhibit 1, Item 5, Exhibit 34, p. 32).

and (2) allowed Windchaser to terminate its rental agreement with Dr. Haynes even though Dr. Haynes asserts that he “addressed all questionably discrepancy to a fully suitable statues within a week” (FAA Exhibit 1, Item 2, p. 4, para. 1-2;). The present complaint incorporates Dr. Haynes’s disagreement with Renae Bagwell of Windchaser Hangars, LLC, and reargues many of the same issues decided by the Order of the Director in FAA Docket No. 16-22-04.

In its Motion to Dismiss/Motion for Summary Judgement, dated December 30, 2022, the County denies it violated Grant Assurance 30, *Civil Rights*, when Dr. Haynes’s lease was terminated. In this regard, the County denies that Dr. Haynes was treated differently than white sublessees. The County also denies that it pressured Windchaser into terminating Dr. Haynes’s rental agreement in retaliation for filing a Part 16 complaint docketed as FAA Docket No. 16-22-04 (FAA Exhibit 1, Item 7, pp. 5-6). Finally, the County claims it did not violate Grant Assurance 22, *Economic Nondiscrimination*, when it allowed Windchaser to terminate Dr. Haynes’s rental agreement because Dr. Haynes was not using the hangar for aeronautical activities, and he failed to bring his T-hangar into compliance with the CASP’s minimum standards. CASP provides pictures and documentation from two hangar inspections to support its claim (FAA Exhibit 1, Item 7, Exhibit C; FAA Exhibit 1, Item 7, Ex. I).

With respect to the allegations presented in this Complaint, under the specific circumstances at CASP discussed in this Determination and based on the evidence of record in this proceeding, including applicable federal law and the FAA policy, the Director, and the FAA Office of Airport Compliance and Management Analysis (Director) finds that the County is not currently in violation of Grant Assurance 22, *Economic Nondiscrimination* or Grant Assurance 30, *Civil Rights*.

The FAA’s decision in this matter is based on applicable federal law, the FAA policy, and review of the pleadings and supporting documentation submitted by the parties, which comprise the Administrative Record reflected in the attached FAA Exhibit 1.

II. PARTIES

A. The Complainant

Dr. Douglas Haynes is a black man, a Colorado resident, and rents a T-hangar from Windchaser Hangars, LLC, at CFO (FAA Exhibit 1, Item 7, Exhibit D, Sub-Exhibit A). Dr. Haynes is the CEO of DEHAS LTD dba Blue Ridge Nebula Starlines (FAA Exhibit 1, Item 2, p. 1).

B. The Airport

CFO is a public-use general aviation reliever airport with approximately 291 based aircraft and supports 75,647 annual operations (FAA Exhibit 1, Item 9). CFO was previous named Front Range Airport (FTG) and became CFO in 2014. The development of the Airport was financed, in part, with the FAA Airport Improvement Program (AIP) funding, authorized by the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. § 47101, et seq. The AIP provides grants to public agencies for the planning and development of public-use airports that are included in the National Plan of Integrated Airport Systems.

The County is the sponsor of CFO and previously FTG. As the sponsor, the County has received \$53,166,538 in AIP funding since 1982, including funding for land acquisition. The County also received approximately \$608,662 in COVID relief funds under the Coronavirus Aid, Relief, and Economic Security Act (CARES), the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA), and the American Rescue Plan Act (ARPA) between 2020 and 2022. In addition, the County received \$760,000 in Bipartisan Infrastructure Law (BIL) funding in 2024 (FAA Exhibit 1, Item 10). As the sponsor for CFO, and its predecessor FTG, the County signed the grants and assumed the grant assurances as part of the terms of the grant agreements² (FAA Exhibit 1, Items 11 and 12). As a condition of receiving federal funding, the County must comply with the FAA Sponsor grant assurances and related federal law. The Grant Assurances are mandated by statute and are part of the terms of the Grant Agreement. The Grant Assurances (FAA Exhibit 1, Item 1) require compliance with Title VI, Sec. 47123, and 14 CFR Part 21 and nondiscrimination by the airport sponsor as a condition of receiving an AIP grant.

III. PROCEDURAL HISTORY

1. Dr. Haynes filed the present complaint on November 5, 2022, under 14 CFR Part 16 against Adams County, Colorado (County/Respondent), the sponsor of the Colorado Air and Spaceport (CFO/CASP) alleging the County violated Grant Assurance 22, *Economic Nondiscrimination*, and Grant Assurance 30, *Civil Rights*, Title VI of the Civil Rights Act of 1964 (“Title VI”), and related laws (FAA Exhibit 1, Item 2).
2. The FAA issued a Notice of Docketing on November 30, 2022 (FAA Exhibit 1, Item 3).
3. The Board of Commissioners for Adams County Colorado (Respondent) and sponsor for Colorado Air and Space Port (CASP) filed its Motion to Dismiss or, in the Alternative, For Summary Judgment on December 20, 2022 (FAA Exhibit 1, Item 4).
4. Dr. Haynes filed an Answer/Rebuttal to the Respondent’s Motion to Dismiss or, in the Alternative, For Summary Judgment on December 28, 2022 (FAA Exhibit 1, Item 5).
5. The FAA issued an Order and Motion for Summary Judgment on February 2, 2023, granting in part, and denying in part the Respondent’s December 20, 2022 Motion to Dismiss or, in the Alternative, For Summary Judgment. The Order dismissed the issues that were previously raised and adjudicated under FAA Docket No. 16-22-04. The Respondent was asked to respond to three remaining issues raised in this complaint FAA Docket No. 16-22-10 (FAA Exhibit 1, Item 6).
6. An Answer was filed by the Board of County Commissioners for Adams County, Colorado, (Respondent) on February 22, 2023 (FAA Exhibit 1, Item 7).
7. Dr. Haynes filed a Reply to the Respondent’s Answer on March 2, 2023 (FAA Exhibit 1, Item 8).

² On September 28, 1982, the County, as the sponsor for FTG accepted its first AIP grant (AIP No. 3-08-0016-01). On April 8, 1986, the County, as co-sponsor of FTG with the Front Range Airport Authority, accepted its first AIP grant for land (AIP No. 3-08-0016-05).

Refer to the Index of the Administrative Record for other administrative filings related to this proceeding FAA Exhibit 1.

IV. FACTUAL BACKGROUND

1. On February 4, 1998, the Board of Commissioners for Adams County, Colorado, approved a land lease between Ronald C. Webster, d/b/a Windchaser Hangars, LLC, and the Front Range Airport Authority for a T-hangar site (FAA Exhibit 1, Item 7, Exhibit A).
2. Mr. Webster's Lease provides in part, "Business Purpose. The Premises are to be used for the construction and use of aircraft hangar buildings and facilities, which shall be subject to and pursuant to this Lease,.....The aircraft hangar building, and the leasehold herein are to be used for aeronautical – related purposes including but not limited to parking and storing of aircraft, maintenance and other activities associated with aircraft ownership. Tenant/s are subject to the Lease Agreement, the minimum standards of the Front Range Airport which "minimum standards" shall be provided to Tenant by Landlord from time-to-time as they are amended and all Federal, state and local ordinances and laws." (FAA Exhibit 1, Item 7, Exhibit A, item 2).
3. On October 5, 2017, Ronald Webster and the complainant, Dr. Haynes, entered into a sublease Rental Agreement, for Hangar T33,1W at Front Range Airport (now CASP). The Lease provides in part, "Occupants shall comply with all laws, rules and regulations and ordinances of any and all governmental authorities concerning the Premises and its use. . . . Occupant acknowledges that the Premises may be used primarily for aircraft storage, and that the use of the Premises for the conduct of a business or for human or animal habitation is specifically prohibited..... Owner may terminate the Rental Agreement at the expiration of any term by giving written notice to the occupant " (FAA Exhibit 1, Item 7, Exhibit D, Sub-Exhibit A, pp. 2-4).
4. On April 5, 2022 and September 20, 2022, the County inspected Dr. Haynes's T-hangar T33, 1W. The County provided inspection reports with photographs to Windchaser. The inspection report notified Windchaser that the violations outlined in the inspection reports are a violation of Windchaser's land lease with the County and CASP's minimum standards (FAA Exhibit 1, Item 4, Exhibit C, pp. 1-8).
5. In a series of emails between October 17, 2022, and November 1, 2022, Windchaser notified Dr. Haynes that he would be locked out of the hangar effective November 2, 2022, if the hangar was not in complete compliance with the County's minimum standards (FAA Exhibit 1 Item 2, Exhibits 8-9).
6. In a series of emails between October 24, 2022, and October 28, 2022, Windchaser and the County discussed the process that Windchaser was taking to bring various T-hangars into compliance with the County's minimum standards (FAA Exhibit 1, Item 7, Exhibit F). Windchaser also notified the County that Dr. Haynes's rental agreement along with the rental agreement of three additional sublessees were not being renewed because Windchaser did not believe these sublessees would comply with the minimum standards (FAA Exhibit 1, Item 7, Exhibit F). According to Windchaser, the month-to-month rental agreements are terminable by the landlord with 10 (ten) days notice, and such agreements do not require the landlord to give any reason for the termination or non-renewal of the lease (FAA Exhibit 1, Item 7, Exhibit D).

7. Windchaser issued a “Notice to Quit”³ to Dr. Haynes effective November 1, 2022, requiring Dr. Haynes to vacate the premises by December 31, 2022 (FAA Exhibit 1, Item 7, Exhibit E).
8. On February 21, 2023, after the Complaint was filed, the County inspected Dr. Haynes’s T-hangar again and determined that many of the minimum standard violations still remained (FAA Exhibit 1, Item 7, Exhibit I).

V. ISSUES

Upon review of the allegations and the relevant airport-specific circumstances, the FAA has determined that the following issues require analysis to provide a complete review of the Respondent’s compliance with applicable federal law and policy.

Issue 1 – (a) Whether the County violated Grant Assurance 30, *Civil Rights*, by allowing Windchaser to terminate Dr. Haynes’s T-hangar rental agreement even though Dr. Haynes claims he had rectified the identified noncompliant issues in his T-hangar. In this regard, Dr. Haynes alleges he was treated differently from white sublessees; and (b) Whether the County violated Grant Assurance 30, *Civil Rights*, by pressuring Windchaser to terminate Dr. Haynes’s rental agreement in retaliation against Dr. Haynes for filing a Part 16 complaint docketed as FAA Docket No. 16-22-04.

Issue 2 – Whether the County violated Grant Assurance 22, *Economic Nondiscrimination*, by allowing Windchaser to terminate its rental agreement with Dr. Haynes even though Dr. Haynes alleges he was engaged in aeronautical activity in the hangar.

VI. APPLICABLE FEDERAL LAW AND POLICY

A. Airport Sponsor Grant Assurances

As a condition precedent to providing airport development assistance under the AIP, the FAA must receive certain assurances from the airport sponsor.⁴ Title 49 U.S.C. § 47107(a) sets forth certain sponsorship requirements to which an airport sponsor receiving federal financial assistance must agree. The FAA has a statutory mandate to ensure that airport owners comply with these sponsor assurances (FAA Exhibit 1, Item 1).

³ In its Answer, CASP clarifies that a Notice to Quit is different than an Eviction Notice, it states “a Notice to Quit, employed by Windchaser in the current instance, terminates a lease agreement by a specific date and cannot be nullified by compliance with any lease terms. See, C.R.S. § 13-40-107. A Notice to Quit does not require the landlord have any cause at all for terminating the agreement. See *id.* It’s simply a formal mechanism to terminate a periodic tenancy.” (FAA Exhibit 1, Item 7, p.5 footnote 4).

⁴ On September 28, 1982, the County, as the sponsor for FTG accepted its first AIP grant (AIP No. 3-08-0016-01). On April 8, 1986, the County, as co-sponsor of FTG with the Front Range Airport Authority, accepted its first AIP grant for land (AIP No. 3-08-0016-5).

B. FAA Enforcement Responsibilities

The Federal Aviation Act of 1958 (FAA Act), as amended, 49 U.S.C. § 40101, assigns the FAA Administrator broad responsibilities for the regulation of air commerce in the interests of safety, security, and development of civil aeronautics. Commitments assumed by airport owners or sponsors in property conveyance or grant agreements are important factors in maintaining a high degree of safety and efficiency in airport design, construction, operation, and maintenance, as well as ensuring the public reasonable access to the airport. Pursuant to 49 U.S.C. § 47122, the FAA must ensure that airport owners comply with their federal grant assurances.

C. The Complaint and Investigative Process

Pursuant to 14 CFR § 16.23, a person directly and substantially affected by any alleged noncompliance may file a complaint with the FAA. The complainant should provide a concise but complete statement of the facts relied upon to substantiate each allegation and describe how the complainant was directly and substantially affected by the things done or omitted by the respondents. The regulations governing Part 16 proceedings provide that, if the parties' pleadings supply "a reasonable basis for further investigation," the FAA should investigate "the subject matter of the complaint." 14 CFR § 16.29(a).

In accordance with 14 CFR § 16.33(b) and (e), "a party adversely affected by the Director's Determination may file an appeal with the Associate Administrator for Airports within 30 days after the date of service of the initial determination." If no appeal is filed within the time period specified in paragraph (b) of this section, the Director's Determination becomes the final decision and order of the FAA without further action.

VII. ANALYSIS AND DISCUSSION

Issue 1(a) – Whether the County violated Grant Assurance 30, *Civil Rights*, by allowing Windchaser to terminate Dr. Haynes's T-hangar rental agreement even though Dr. Haynes claims he had rectified the identified noncompliant issues in his T-hangar. In this regard, Dr. Haynes alleges he was treated differently from white sublessees.

Haynes's Position

Dr. Haynes alleges that CASP violated Grant Assurance 30, *Civil Rights*, when it cited him for noncompliance with its minimum standards including "storage of private business materials, long term storage [sic] derelict aircraft and parts, restricted first responders' egress [sic] digress clearance, excessive extension cords utilization practices, and limited fire extinguisher accessibility." (FAA Exhibit 1, Item 2, p. 3). In this regard, Dr. Haynes alleges Windchaser "gave one of the white base [sic] aircraft owners [sic] leases with here [sic] company Windchaser, two weeks or more to remedy their need to have an aircraft annual inspection completed before revisiting his need to be issued an eviction notice while I was giving [sic] no day." (FAA Exhibit 1, Item 2, p. 4). Dr. Haynes alleges he was given a "racially biased, illegal, and unethical eviction notice based on the original alleged 6 violations . . . and given only a few days to move out" (FAA Exhibit 1, Item 2, p. 4). Dr. Haynes asserts the violations are not

true (FAA Exhibit 1, Item 2, p. 3). Dr. Haynes further alleges that he acted within one week to address all of the questionable discrepancies within his T-hangar (FAA Exhibit 1, Item 2, p. 4).

The County's Position

The County denies Dr. Haynes was treated differently from racially white peers. The County asserts the sublessees who were initially cited for violations (note 8 sublessees were originally cited and 4 were allowed to continue their lease) and who were allowed to continue leasing hangar space with Windchaser, remedied the minimum standards violations identified by CASP. In contrast, Dr. Haynes and three other sublessees did not remedy the identified minimum standards violations identified by CASP. Therefore, Windchaser terminated the lease of Dr. Haynes and three additional sublessees (FAA Exhibit 1, Item 7, Exhibit F; FAA Exhibit 1, Item 7, Exhibit G). The County asserts that none of the noncompliant sublessees, including Dr. Haynes, were given additional time or opportunities to bring their hangar into compliance. The County asserts at least one of the four tenants whose lease was terminated was racially white, and Dr. Haynes received identical treatment to all the other tenants whose leases were terminated (FAA Exhibit 1, Item 7, p. 5).

Director's Determination

Upon review of the record, the Director finds that Dr. Haynes has not presented any evidence to show that the County is presently in violation of Grant Assurance 30, *Civil Rights*.

Grant Assurance 30, *Civil Rights*, and Title VI of the Civil Rights Act of 1964. Grant Assurance 30, *Civil Rights* states:

The owner of an airport will promptly take any measures necessary to ensure that no person in the United States shall on the grounds of race, creed, color, national origin, sex, age or disability will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

A Title VI discriminatory intent claim alleges that a recipient [CFO] intentionally treated persons differently or otherwise knowingly caused them harm because of their race, color, or national origin. *Alexander v. Sandoval*, 532 U.S. 275, 275, (2001). "Discrimination" refers to any action or inaction, whether intentional or unintentional, in any program of a recipient of federal financial assistance that results in disparate treatment (including retaliation under 49 C.F.R. § 21.11(e)), disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin (including limited English proficiency). (See 49 C.F.R. §21.5).

Under *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), complainants must first establish a *prima facie* case of discrimination by demonstrating (a) they are a member of a protected class; (b) they suffered an adverse action; and (c) they were treated differently compared to similarly situated individuals who are not of the same protected class. *Id.* Next, If the complainant establishes a *prima facie* case, the burden in court shifts to the defendant to articulate some legitimate, nondiscriminatory reason for the challenged action. *EEOC v.*

Boeing Co., 577 F.3d 1044, 1049 (9th Cir. 2009). Lastly, If the defendant meets the Step 2 burden, the burden shifts back to the plaintiff to demonstrate that the proffered reason is false—that is, that the nondiscriminatory reason(s) the defendant gives for its actions are not the true reasons and are actually a pretext for the exercise of prohibited discriminatory intent. *Brooks v. Cty. Comm'n of Jefferson Cty.*, 446 F.3d 1160, 1162– 63 (11th Cir. 2006).

The complainant has the initial burden of alleging facts to support a *prima facie* case of discrimination. *Id.* The party accused of discrimination can rebut the *prima facie* case but has the burden to show a legitimate nondiscriminatory reason for the action. Int'l Bhd. of Teamsters v. United States, 431 U.S. 324, 360, (1977). That reason must then be evaluated to ensure it is not merely a pretext for discrimination. *McDonnell Douglas*, 411 U.S. at 804.

Dr. Haynes has not established a *prima facie* case. It is uncontroverted that Dr. Haynes is a black man. The record shows that Dr. Haynes was evicted in the same manner as other sublessees who failed to bring their T-hangars into compliance with the minimum standards (FAA Exhibit 1, Item 2, p. 3; FAA Exhibit 1, Item 7, Exhibit F). There is no direct evidence of discrimination, and the County offered a legitimate non-discriminatory reason for Dr. Haynes's lease being terminated—his lease required him to comply with all laws, rules and regulations, and ordinances of any and all governmental authorities concerning the Premises and its use and Dr. Haynes was not in compliance with the County's minimum standards (FAA Exhibit 1, Item 7, Exhibit D, Sub Exhibit A, p. 2).

A *prima facie* case requires a showing of different treatment compared to a similarly situated party that is not of the complainant's same protected class. Dr. Haynes has not provided evidence or alleged specific facts that can make a *prima facie* case. Dr. Haynes has also not provided evidence or other documentation contradicting the County's evidence that the lease was terminated because he did not correct the minimum standards violations, not because Dr. Haynes was a member of a protected class.

Further, the County provides evidence that other parties were evicted in the same manner as Dr. Haynes. With respect to the lock-out notice, Dr. Haynes asserts Windchaser “gave one of the other white base aircraft owners . . . two weeks or more to remedy their need to have an aircraft annual inspection completed before revisiting his need to be issued an eviction notice while I was given no [sic] day” (FAA Exhibit 1, Item 2, p. 4). The record shows that Dr. Haynes was aware of and actually had several months to address the minimum standards violations in his hangar prior to receiving a lock-out notice. The record shows the first inspection occurred in April 2022. The record also shows that in July 2022 Dr. Haynes stated that he purchased aircraft N25ED in order to address the minimum standards violations in his hangar demonstrating that he was aware of the need to use the hangar for aeronautical purposes (FAA Exhibit 1, Item 4, Exhibit G, p. 3). However, his attempt to meet the minimum standards was unsuccessful as he provided no evidence to CASP that the aircraft was in fact airworthy.

The record shows that Windchaser notified Dr. Haynes on October 17 that the lock-out *notice* would be posted on October 18—1 day later, and it was. The same notice shows that “lock out will happen on November 2 if NOT in complete compliance” (FAA Exhibit 1, Item 2, Exhibit 8.). There are at least two weeks or 14 days between October 18 and November 2—not one day

as suggested by Dr. Haynes. With respect to the lock-out notice the record shows that Dr. Haynes was given at least two weeks to correct the discrepancies within his hangar—not any different than the time he alleges “white base aircraft owners” were given. This notice also alerted Dr. Haynes to Windchaser’s concern with losing its own land lease because of noncompliant hangars. According to the Affidavit of Renea Bagwell (FAA Exhibit 1, Item 7 Exhibit D), all of the tenants that were given the same amount of time to address the discrepancies. In addition, all four including Dr. Haynes were given 60 days after the eviction notice to vacate the hangar as long as they paid their monthly rent.

The County presented uncontradicted evidence of a legitimate non-discriminatory reason for Windchaser’s actions, that is Dr. Haynes non-compliance with the Airport’s minimum standards and FAA grant assurances. Windchaser terminated four rental agreements to bring Windchaser’s premises into compliance with the FAA grant assurances, CASP’s minimum standards, and federal, state, and local laws. (FAA Exhibit 1, Item 4, p. 7). The Director finds that Dr. Haynes did not show that the reason for Windchaser’s lock-out notice, and subsequent eviction notice were a pretext for discrimination.

The Director finds that Dr. Haynes has not established a *prima facie* case sufficient to prevail. There is no direct evidence of discrimination. There is no documentation identifying any specific party that Dr. Haynes alleges was treated more favorably and no evidence of different treatment of similarly situated parties at all. The County provided a legitimate non-discriminatory reason for the termination of Dr. Haynes’s rental agreement.

In consideration of the above, the Director finds that the record does not support a violation of Grant Assurance 30, *Civil Rights*. Therefore, the Director dismisses this specific allegation under Grant Assurance 30, *Civil Rights* in regard to Issue 1(a).

Issue 1(b) – Whether the County violated Grant Assurance 30, *Civil Rights*, by pressuring Windchaser to terminate Dr. Haynes’s rental agreement in retaliation against Dr. Haynes for filing a Part 16 complaint docketed as FAA Docket No. 16-22-04.

Haynes’s Position

Dr. Haynes alleges that the County unreasonably pressured Windchaser to terminate his sublease, and that the County’s purpose was “retaliation action from the airport” for Dr. Haynes’s on-going complaint against the County, specifically, FAA Docket No. 16-22-04. (FAA Exhibit 1, Item 2, p. 4). Dr. Haynes alleges that the County told Windchaser “to act negatively toward me too or be kicked off the airport” (FAA Exhibit 1, Item 5, p. 4).

County’s Position

The County denies that it pressured Windchaser to terminate Dr. Haynes’s lease. The County asserts the Dr. Haynes was given the same opportunities as all subtenants of Windchaser and must comply with the same rules as all subtenants and patrons of the Airport (FAA Exhibit 1, Item 7, p. 6).

The County denies that it retaliated against Dr. Haynes. The County asserts that Dr. Haynes was one of several of Windchaser's sublessees with violations in their T-hangars and that neither the County nor Windchaser treated Dr. Haynes's T-hangar differently from others. The County asserts that it had a policy of conducting inspections for all premises at its facilities and that Dr. Haynes was not singled out or targeted in any manner (FAA Exhibit 1, Item 7, p. 6).

Director's Determination

Retaliation is a form of discrimination and is prohibited on the basis of race, color, or natural origin. 49 C.F.R. § 21.11(e). In order to make a preliminary showing of retaliation⁵, the Complainant must present evidence that (1) they engaged in protected activity of which the retaliating party was aware; (2) the retaliating party took a significant adverse action against the complainant; and (3) that a causal connection exists between the complaint's protected activity and the retaliating party's adverse action. See *Peters v. Jenney*, 327 F.3d 307, 320 (4th Cir. 2003); *Emedle v. Univ. of Oregon*, 673 F.3d 1218, 1223 (9th Cir. 2012); *Palmer v. Penfield Cent. Sch. Dist.*, 918 F.Supp. 2d 192, 199 (W.D.N.Y. 2013); *Kimmel v. Gallaudet Univ.*, 639 F. Supp. 2d 34, 43 (D.D.C. 2009); *Hickey v. Myers*, 852 F. Supp. 2d 357, 268 (N.D.N.Y. 2012); *Chandamuri v. Georgetown Univ.*, 274 F. Supp. 2d 71, 84 (D.D.C. 2003).

The adverse action alleged by Dr. Haynes is the same as for Issue 1(a), that he was given one day to correct any hangar discrepancies while "other white base aircraft owners leases...[were given], two weeks or more to remedy their need to have an aircraft annual inspection completed before revisiting his need to be issued an eviction notice" (FAA Exhibit 1, Item 2, p. 4).

As discussed above, the Director finds that Dr. Haynes has not met his burden for showing disparate treatment, which includes a required showing of different treatment. For the retaliation claim, different treatment of Dr. Haynes or other evidence is necessary to show the causal connection between the prior protected activity and the alleged adverse actions. Dr. Haynes provided no evidence or documentation to prove that any of the sublessees who were similarly situated to Dr. Haynes were treated differently by Windchaser. Dr. Haynes provided no additional evidence or specific allegations that if proven would show a causal connection between the fact that he filed a previous Part 16 complaint with the FAA and the termination of his rental agreement with Windchaser. Dr. Haynes's rental agreement was terminated for failure to comply with the Airport minimum standards and to cure those violations. Further, the Complainant provides no evidence to suggest CASP pressured Windchaser to target Dr. Haynes. CASP found 8 tenants of Windchaser to be in noncompliance (4 of which addressed the

⁵ Retaliation for filing a discrimination complaint is prohibited under several authorities. It is explicitly prohibited under 49 CFR Part 21 at 49 CFR § 21.11(e). Similarly, antidiscrimination statutes, including Sec. 47123, contain an implied cause of action for retaliation based on their general prohibitions for intentional discrimination. See, e.g., *Jackson v. Birmingham Bd. Of Educ.*, 544 U.S. 167, 173 (2005) ("Retaliation against a person because that person has complained of sex discrimination is another form of intentional sex discrimination encompassed by Title IX [of the Education Amendments of 1972 Act]'s private cause of action"); *Sullivan v. Little Hunting Park, Inc.*, 396 U.S. 229, 237 (1969) (a prohibition on racial discrimination includes an implicit prohibition on retaliation against those who oppose the discrimination); *Gomes-Perez v. Potter*, 553 U.S. 474, 479 (2008) (Age Discrimination in Employment Act prohibitions for age discrimination implicitly cover claims of retaliation for filing an age discrimination complaint). In *Jackson*, the Court noted that the statute itself supplies sufficient notice to a recipient that it cannot retaliate against those who complain of discrimination, requiring no separate regulation. *Jackson*, 544 U.S. at 183.

noncompliance). CASP alerted Windchaser that its lease could be in jeopardy if it did not address the noncompliance of all subleases.

In consideration of the above, the Director finds that the record does not support a violation of Grant Assurance 30, *Civil Rights*. Therefore, the Director dismisses this specific allegation under Grant Assurance 30, *Civil Rights* in regard to the retaliation allegation – Issue 1(b)

Issue 2 – Whether CASP violated Grant Assurance 22, *Economic Nondiscrimination*, by allowing Windchaser to terminate its rental agreement with Dr. Haynes even though Dr. Haynes was engaged in aeronautical activity in his T-hangar.

Haynes’s Position

Dr. Haynes asserts that he was in compliance with the CASP’s minimum standards (FAA Exhibit 1, Item 4, p. 4). In support of this assertion, he provided undated photographs of the contents of his hangar (FAA Exhibit 1, Item 2, Exhibits 1-7). Additionally, Dr. Haynes asserts that he stored an airworthy, amateur-built aircraft N23ED in his T-hangar, as well as a self-made training device, and other materials used in association with his aircraft. Dr. Haynes asserts that he is not presently violating any FAA or airport laws, rules . . . ordinances or standards (FAA Exhibit 1, Item 2, Exhibits 1-6).

County’s Position

The County denies that it is in violation of Grant Assurance 22, *Economic Nondiscrimination*. and asserts that Dr. Haynes was not engaged in aeronautical activity on the premises when Windchaser decided to terminate his lease; and thus, Grant Assurance 22 would not be implicated (FAA Exhibit 1, Item 7, pp. 6-7). The County maintains that Dr. Haynes remains in noncompliance with its minimum standards despite his assertions to the contrary and provides photos from the February 21, 2023 inspection to demonstrate he is still in noncompliance (FAA Exhibit 1, Item 7, pp. 5-6; FAA Exhibit 1, Item 7, Exhibit I). The County provides evidence that Aircraft N25ED registration was pending as of February 21, 2023 (FAA Exhibit 1, Item 7, Exhibit J).

Director’s Determination

Upon review of the record, the Director finds that Dr. Haynes has failed to carry his burden of proof showing the County is in violation of Grant Assurance 22. Dr. Haynes has failed to identify how Windchaser’s efforts to bring its own subleased hangars into compliance with the County’s minimum standards is tantamount to a current violation of Grant Assurance 22.

Grant Assurance 22, *Economic Nondiscrimination*, provides that an airport sponsor:

“will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds, and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.”

On September 20, 2022 the County sent Windchaser an email notifying Windchaser of the minimum standards violations found during reinspection of Dr. Haynes's hangar T-33, 1W. The violations included: (1) no airworthy aircraft in the hangar, (2) storage of inventory or equipment supporting a private business, (3) long term storage of derelict aircraft or parts, (4) storage of items that block an egress, and (5) excessive use of extension cords (FAA Exhibit 1, Item 7, Exhibit C).

In an October 17, 2022 email between Dr. Haynes and CASP, Dr. Haynes denied that he was in noncompliance with CASP's minimum standards and requested additional time to clear up any potential "minimum standers [sic] discrepancies noted in the September 20, 2022, inspection report (FAA Exhibit 1, Item 4, Exhibit G)." In response to Dr. Haynes's request, the County explained that the previous Administration may have "lacked follow-through with consequences for non-compliance inspections and re-inspections;" however, the present Administration does not. The County informed Dr. Haynes that it is their stance that he has been "given an abundance of time and opportunity to make any and all corrections". The County explained that in the interest of the safety of their tenants, follow-through on non-compliant hangars is paramount. The County explained that the Administration is required to adhere to the rules of regulations of Adams County and the FAA, including the FAA's Grant Assurances. Finally, the County informed Dr. Haynes that they had begun the Eviction Process with Windchaser due to several of Windchaser's hangar being non-compliant (FAA Exhibit 1, Item 4, Exhibit G, p. 1).

Dr. Haynes asserts that items in his T-hangar include amateur built eVTOLs, an amateur built wooden trainer, and an airworthy, amateur-built aircraft (N23ED) that he has the County's permission to house and continue to build these items in accordance with the County's minimum standards (FAA Exhibit 1, Item 4, Exhibit G. p. 4). However, Dr. Haynes provides no documentation or evidence to the record to support that assertion.

Nonetheless, the FAA policy prescribes reasonable standards for aeronautical use of hangars. Housing and building amateur built aircraft are included among the aeronautical uses for hangars.⁶ Here, the Complainant has asked the Director to find that, among all of the demonstrably non-aeronautical uses of the hangar, the Complainant's conception of various rudimentary, unconventional, and likely unflyable projects resembling an aircraft amount to a primary aeronautical use of the hangar. While the Director does not make determinations of aircraft certification or airworthiness, the Director holds that the County does not bear the burden of accommodating every conceivable idea a hangar tenant may devise or believe to be an aeronautical use, including those projects in Dr. Haynes' hangar that form the basis of this complaint. While amateur built aircraft are considered an aeronautical use, the airport sponsor can and should exercise reasonable discretion when evaluating hangar uses. The FAA policy provides clear guidance on sponsor requirements regarding non-aeronautical uses of hangars. (See *Policy on the Non-Aeronautical Use of Airport Hangars*, 81 FR 38906, 38910, 38911). Dr. Haynes assertion that he has an airworthy amateur-built aircraft (N23ED) stored in his hangar,

⁶ Title 14, Code of Federal Regulations (14 CFR), part 21, section 21.191(g), defines an amateur-built aircraft as an aircraft "the major portion of which has been fabricated and assembled by person(s) who undertook the construction project solely for their own education or recreation."

even if it were verified to be airworthy, which it is not⁷, is insufficient to demonstrate he is in compliance with the County's minimum standards. The Director points to photographs in the administrative record to substantiate that the clear primary use of the hangar is nonaeronautical in nature.

Part 16 provides in part, “[t]he burden of proof is on the complainant to show noncompliance with an Act or any regulation, order, agreement or document of conveyance issued under the authority of an Act” (14 CFR § 16.23(k)(1)). Dr. Haynes has failed to demonstrate that the County is in violation of Grant Assurance 22. The photographs provided by Dr. Haynes in the pleadings, do not demonstrate that all discrepancies have been addressed sufficiently to demonstrate a primary aeronautical use of the hangar, as required.

The record shows that the County repeatedly determined that Dr. Haynes's T-hangar was not being used primarily for aeronautical purposes and he failed to bring his T-hangar into compliance with the County's minimum standards (FAA Exhibit 1, Item 7, Exhibit C; FAA Exhibit 1, Item 7, Ex. I). Windchaser terminated Dr. Haynes's T-hangar rental agreement effective November 1, 2022 along with 4 other similarly situated noncompliant tenants. As of February 21, 2023, the County determined the minimum standards violations still remained (FAA Exhibit 1, Item 7, Exhibit E; FAA Exhibit 1, Item 7, Exhibit I). The Director finds that under these circumstances the County exercised reasonable discretion in allowing Windchaser to terminate Dr. Haynes T-hangar rental agreement.

In consideration of the above, the Director finds that the record does not support a violation of Grant Assurance 22, *Economic Nondiscrimination*. Therefore, the Director dismisses this specific allegation under Grant Assurance 22, *Economic Nondiscrimination*.

VIII. CONCLUSION AND FINDINGS

Upon consideration of the submissions, responses by the parties, the administrative record herein, applicable law and policy, and for the reasons stated above, the Director of the FAA Office Airport Compliance and Management Analysis finds and concludes:

⁷ The Complainant provides no evidence his amateur built aircraft is airworthy while the County provides FAA records dated February 21, 2023, that indicate the “Registration is Pending” under the “Name of Registered Owner” suggesting the airworthiness is in doubt (FAA Exhibit 1, Item 7, Exhibit J).

1. **Issue 1(a):** The County is not currently in violation of Grant Assurance 30, *Civil Rights*, related to allegations of discrimination based on race, by allowing Windchaser to terminate Dr. Haynes's T-hangar agreement. The record does not show that Dr. Haynes was treated differently than similarly situated sublessees who were not of Dr. Haynes's protected class.
2. **Issue 1(b):** The County is not currently in violation of Grant Assurance 30, *Civil Rights*, related to an allegation of retaliation. The record does not show that the County pressured Windchaser into terminating Dr. Haynes's rental agreement in retaliation against Dr. Haynes for filing a Part 16 complaint docketed as FAA Docket No. 16-22-04.
3. **Issue 2:** The County is not currently in violation with Grant Assurance 22, *Economic Discrimination*. The record shows that the County's actions were reasonable and in accordance with its minimum standards when it allowed Windchaser to terminate Dr. Haynes's T-hangar rental agreement.

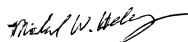
ORDER

ACCORDINGLY, it is ordered that:

1. The Complaint is dismissed.
2. All Motions not expressly granted in this Determination are denied.

RIGHT OF APPEAL

This Director's Determination under FAA Docket No. 16-22-10 is an initial agency determination and does not constitute final agency decision and order subject to judicial review under 49 U.S.C. § 46110. [14 CFR § 16.247(b)(2).] A party to this proceeding adversely affected by the Director's Determination may file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination. If no appeal is filed within the time period specified, the Director's Determination becomes the final decision and order of the FAA without further action. A Director's Determination that becomes final because there is no administrative appeal is not judicially reviewable. [14 CFR § 16.33.]

 Digitally signed by
MICHAEL W HELVEY
Date: 2024.08.30
12:30:11 -04'00'

Michael Helvey
Director, Office of Airport Compliance
and Management Analysis

Dr. Douglas Haynes, Complainant
v.
Board of County Commissioners of Adams County, Colorado, Respondent

Docket No. 16-22-10

INDEX OF ADMINISTRATIVE RECORD

The following items constitute the administrative record in this proceeding:

FAA Exhibit 1

Item 1 – Airport Improvement Program Grant Assurances for Airport Sponsors,
https://www.faa.gov/airports/aip/grant_assurances

Item 2 – Complaint, November 5, 2022

Exhibit 1, Photograph, Hangar contents, Aircraft N25ED, undated, Complaint p. 15

Exhibit 2, Photograph, Hangar contents, undated, Complaint p. 16

Exhibit 3, Email, Douglas Haynes to Respondent, October 18, 2022, Renae Bagwell,
Michael.b.Matz@faa.gov, Complaint p. 16

Exhibit 4, Photograph, Hangar Occupation, Undated, Complaint p. 17

Exhibit 5, Photograph, CASP Hangar Occupation, Undated, Complaint, p. 17

Exhibit 6, Photograph, CASP Hangar Occupation, Undated, Complaint, p. 17

Exhibit 7, Email from CASP to Haynes and Windchaser, September 20, 2022,
Complaint, pp. 17-18

Exhibit 8, Email Windchaser to Haynes, October 17, 2020, and October 18, 2022,
October 25, 2022, Complaint, pp. 19-20

Exhibit 9, Email from Windchaser to Haynes, November 1, 2022, p. 20

Exhibit 10, Email from Windchaser to Haynes, November 3, 2002, November 1, 2022,
October 31, 2022, pp. 20-21

Exhibit 11, Email Haynes to Windchaser, pp. 22, 23, November 2, 2022, pp. 22-23

Exhibit 12, Email from Windchaser to Haynes, November 3, 2022, p. 23

Exhibit 13, Email from Haynes to Matz, FAA, October 18, 2022, p. 24

Exhibit 14, Email from Haynes to FAA, undated; p. 24

Exhibit 15, Email from Haynes to FAA, October 18, 2022, pp. 24, 25

Exhibit 16, Haynes Identification Cards, Undated, not included for
Privacy reasons, personally identifiable information (PII)

Item 3 – U.S. DOT/FAA, Notice of Docketing, November 30, 2022

Item 4 – Motion to Dismiss/Motion for Summary Judgment, December 20, 2022

Exhibit A, Land Lease to Windchaser, February 4, 1998

Exhibit B, U.S. DOT, FAA, Order of the Director, FAA Docket No. 16-22-04

Exhibit C, CASP Hangar Inspection, April 5, 2022

Exhibit D, Email, CASP to Haynes, July 27, 2022
 Exhibit E, CASP Hangar Inspection, September 20, 2022
 Exhibit F, Email, CASP to Haynes, October 17, 2022
 Exhibit G, Email, CASP to Haynes, October 20, 2022
 Exhibit H, Email, Windchaser to CASP, October 24, 2022
 Exhibit I, Email, Windchaser to CASP, October 25-28, 2022

Item 5 – Complainant’s Answer to Motion to Dismiss/Motion for Summary Judgement, December 28, 2022

Exhibit 20, Windchaser Haynes Rental Agreement, October 5, 2017
 Exhibit 21, CASP Project/Leasing Update, Undated
 Exhibit 22, FTG/CASP Minimum Standards, Undated
 Exhibit 23, CASP to Haynes, Letter, Notice of Termination, T31-1E, January 31, 2022
 Exhibit 24, CASP to Haynes, Letter, March 4, 2022
 Exhibit 25, Part 16 Complaint re Unit T31-1e, February 25, 2022
 Exhibit 26, Email, Haynes to Matz, (FAA), February 2, 2022
 Exhibit 27, Email, Haynes to Matz, (FAA), February 7, 2022
 Exhibit 28, Email, Haynes to Matz, (FAA), February 22, 2022
 Exhibit 29, Email, CASP re Termination Notice, T31-1E, January 31, 2022
 Exhibit 30, Email, CASP re Termination Notice T31-1E, January 31, 2022
 Exhibit 31, Email, Haynes to CASP, January 31, 2022
 Exhibit 32, Email, Haynes to CASP, February 7, 2022
 Exhibit 32 [sic], Untitled, undated photographs
 Exhibit 34, Grant Transmittal Letter, November 10, 2021
 Exhibit 35, USPS Receipt, December 23, 2022

Item 6 – U.S. DOT/FAA, Order and Motion for Summary Judgment, FAA Docket No. 16-22-10, February 2, 2023

Item 7 – Answer, Board of County Commissioners of Adams County, CO, Docket No. 16-10-22, February 22, 2023

Exhibit A, Lease, State of Colorado, County of Adams and Windchaser/Webster, February 4, 1998
 Exhibit B, Affidavit of Flowers, W., February 14, 2023
 Exhibit C, Colorado Air and Spaceport Hangar Inspection Form, September 20, 2022
 Exhibit D, Affidavit of Bagwell, R., Windchaser Hangar Rentals, February 16, 2023
 Exhibit D sub Ex A, Lease between Windchaser and Haynes, October 5, 2017
 Exhibit E, Windchaser to Haynes, Notice to Quit, October 27, 2022
 Exhibit F, Emails between Windchaser and CASP, October 24, 2022; October 25, 2022; October 28, 2022
 Exhibit G, Email, Windchaser to Haynes, October 31, 2022; Email, Haynes to Windchaser, October 31, 2022; Email, Windchaser to Haynes, October 31, 2022; Email, Haynes to Windchaser, October 27, 2022; Email, Windchaser to Haynes, October 25, 2022; Email, Haynes to Windchaser, October 25, 2022

Exhibit H., Email, Windchaser to CASP, November 16, 2022
Exhibit I., CASP Inspection Form, February 21, 2023
Exhibit J., Aircraft Inquiry, U.S. DOT, February 21, 2023
Exhibit K., Website, www.blueridgeairlines.com, February 22, 2023

Item 8 – Haynes, Rebuttal to Respondent’s Answer, March 2, 2023

Item 9 – FAA Form 5010 for Airport, dated July 21, 2024

Item 10 – Colorado Air and Spaceport, Airport Grant History, dated July 25, 2024

Item 11 – AIP Grant dated September 28, 1982

Item 12 – AIP Grant dated April 1, 1986

Item 13 – U.S. DOT/FAA Notice of Extension, dated July 11, 2023

Item 14 – U.S. DOT/FAA Notice of Extension, dated September 13, 2023

Item 15 – U.S. DOT/FAA Notice of Extension, dated November 27, 2023

Item 16 – U.S. DOT/FAA Notice of Extension, dated January 16, 2024

Item 17 – U.S. DOT/FAA Notice of Extension, dated March 21, 2024

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 30, 2024, I caused to be mail and/or to be placed in the Federal Express a true copy of this Director's Determination for FAA Docket No.16-22-10 addressed to:

FOR THE COMPLAINANT

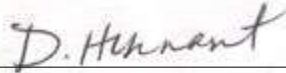
Dr. Douglas E. Haynes
CEO of DEHAS LTD, dba
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Stu 82
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FOR THE RESPONDENT

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Copy to

FAA Part 16 Airport Proceedings Docket (AGC-600)
FAA Airport Compliance and Management Analysis (ACO-100)
FAA Northwest Mountain Regional Office (ANM-600)



Danielle Hinnant
Office of Airport Compliance
and Management Analysis