

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

SOUTHERN CALIFORNIA PILOTS
ASSOCIATION,

COMPLAINANT,

v.

COUNTY OF ORANGE,

RESPONDENT.



FAA Docket No. 16-23-17

DIRECTOR'S DETERMINATION

I. INTRODUCTION

This matter is before the Federal Aviation Administration (FAA) on a complaint filed under Title 14 of the Code of Federal Regulations, Part 16 (14 CFR part 16) by the Southern California Pilots Association (Complainant or SoCal Pilots) against the County of Orange (Respondent or County), sponsor of the John Wayne Airport (SNA or Airport).

SoCal Pilots claim the County violated Grant Assurance 22, *Economic Nondiscrimination* and Grant Assurance 24, *Fee and Rental Structure*, by discriminating against small, general aviation (GA) aircraft owners by implementing its General Aviation Improvement Program (GAIP). SoCal Pilots claim "the GAIP calls for the displacement of at least 242 small, single-engine aircraft, by eliminating hangar and parking spaces previously utilized by these small GA aircraft, for the express purpose of making that space available for an increasing number of larger jet and turboprop aircraft that Respondent hopes to attract to the Airport." (FAA Exhibit 1, Item 2, p. 3). Further it claims the "Respondent has also violated Grant Assurance 24... by engaging in a series of exorbitant rent increases on small GA parking spaces which fall far outside the requirements" of the assurance (FAA Exhibit 1, Item 2, p. 6). It states, "[t]he County, through definition, design, and price, are engaging in a systematic effort to discriminate against small general aviation aircraft in favor of larger jet aircraft." (FAA Exhibit 1, Item 2, pp. 2-3).

The County denies this, and claims, "[t]he GAIP does not discriminate against any single aeronautical provider or class of aeronautical providers: it protects the significant general aviation presence at the Airport for all types of aircraft and makes reasonable adjustments in Airport infrastructure to best accommodate its projected future users." (FAA Exhibit 1, Item 4, p. 19). Further, "[t]he County acknowledges that market conditions, the taxiway reconfiguration, and the GAIP may ultimately result in less room at the Airport for general aviation as a whole and, as a subset of that, single-engine aircraft." (FAA Exhibit 1, Item 4, p. 17). It suggests this is

in response to market forces that show small, single-engine and multi-engine aircraft are declining while jet and helicopter aircraft activity are increasing (FAA Exhibit 1, Item 4, p. 5).

The County claims that SoCal Pilots provides no evidence that the increase in rental rates is targeted to single-engine aircraft. It claims that previous rates were significantly below market value and that any increase in rental rates charged by the fixed-base operators (FBOs) does not impact the Airport's revenue or operating costs (FAA Exhibit 1, Item 4, p. 22).

With respect to the allegations presented in this Complaint, under the specific circumstances at the Airport as discussed below and based on the Administrative Record in this proceeding, the Director finds the County is not in violation of Grant Assurance 22, *Economic Nondiscrimination* and Grant Assurance 24, *Fee and Rental Structure* by initiating its plan to develop the Airport.

The FAA's decision in this matter is based on applicable federal law, FAA policy, and a 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. Complainant

The Southern California Pilots Association (SoCal Pilots) is a non-profit organization that represents the interests of pilots and aircraft owners in Southern California. The membership is largely made up of single-engine piston aircraft owners based at John Wayne Airport (FAA Exhibit 1, Item 2, p. 5).

B. Respondent

The County of Orange is the owner and operator of the John Wayne Airport located in Southern California. The County has owned and operated the Airport since 1939 (FAA Exhibit 1, Item 2, p. 5). The Airport is a towered primary airport and consists of two parallel Runways 02L/22R and 02R/22L. The former is 5,700 feet long and 150 feet wide, while the latter is 2,866 long by 75 feet wide. The Airport has 367 based aircraft including 242 single engine aircraft. The Airport accommodated over 316,000 annual operations according to the FAA Form 5010, *Airport Master Records* (FAA Exhibit 1, Item 11).

The Airport development has been financed, in part, with funds provided by the FAA under the Airport Improvement Program (AIP) authorized by the Airport and Airway Improvement Act of 1982, as amended 49 U.S.C. § 47107, *et seq.* Since 1982 the County has accepted \$171,268,851 in AIP funds and \$95,462,764 in COVID relief funds (FAA Exhibit 1, Item 12).

III. PROCEDURAL HISTORY

- 1) On July 26, 2023, SoCal Pilots filed its Complaint, Exhibits, and Declarations from members Craig Ryan, Gary Schank, Chris Schwartz, Fred Fourcher, Henry Arjad, and William Brooks (FAA Exhibit 1, Items 2 and 2A).

- 2) On August 14, 2023, the FAA docketed the Complaint as FAA Docket No. 16-23-17 (FAA Exhibit 1, Item 3).
- 3) On September 5, 2023, the County filed its Answer to the Complaint and supporting evidentiary materials (FAA Exhibit 1, Item 4).
- 4) On September 15, 2023, SoCal Pilots filed its Reply to the Answer (FAA Exhibit 1, Item 5).
- 5) On February 20, 2024, the FAA issued a Request for Information to the County of Orange (FAA Exhibit 1, Item 6).
- 6) On March 11, 2024, the County of Orange filed its Response for Request for Additional Information (FAA Exhibit 1, Item 7).

All other motions and notices are included in Administrative Record (FAA Exhibit 1).

IV. FACTUAL BACKGROUND

The undisputed facts in this matter are as follows:

June 25, 2019	The County Board of Supervisors certified the draft environmental impact report (DEIR) under the California Environmental Quality Act, and approved items 1A and 2A (FAA Exhibit 1, Item 2, Exhibit 2).
January 2021	The Airport stopped renting hangar and tie-down space directly to the users and instead entered into leases with the FBOs ¹ who in turn rented the hangar space and tiedowns to the end users (FAA Exhibit 1, Item 4, p. 21).
March 8, 2022	The County approved the final version of the GAIP (FAA Exhibit 1, Item 2, Exhibit 4).
September 9, 2022	The FAA Los Angeles Airports District Office (LA-ADO) issued to the County a Categorical Exclusion Approval letter under the National Environmental Policy Act for a portion of the GAIP redevelopment (FAA Exhibit 1, Item 4, Exhibit A).

¹ The Airport currently has leases with two full service FBOs that are part of the GAIP - ACI Jet and Clay Lacy Aviation - that rent hangar and tiedown space to aeronautical users.

December 11, 2023

The FAA LA-ADO conditionally approved the John Wayne Airport Layout Plan which includes the GAIP improvements² (FAA Exhibit 1, Item 10).

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 – Whether the County violated Grant Assurance 22, Economic Nondiscrimination, by initiating its General Aviation Improvement Program (GAIP) that will reduce the number of parking positions for small single-engine aircraft, thereby unjustly discriminating against that class of aeronautical users.

Issue 2 – Whether the County violated Grant Assurance 22, Economic Nondiscrimination and Grant Assurance 24, Fee and Rental Structure, due to the significant increase in rental rates for tie-downs and hangars for small aircraft in excess of its operating cost increases and thereby discriminating against that class of aeronautical users.

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. 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. See FAA Exhibit 1, Item 1 in the Index for a link to all the grant assurances.

B. FAA Enforcement Responsibilities

The Federal Aviation Act of 1958, 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

² The ALP approval was issued after the pleadings were filed and are entered into the Administrative Record by the Director.

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

Issue 1 – Whether the County violated Grant Assurance 22, Economic Nondiscrimination, by initiating its General Aviation Improvement Program (GAIP) that will reduce the number of parking positions for small single-engine aircraft, thereby unjustly discriminating against that class of aeronautical users.

1. SoCal Pilots' Position

SoCal Pilots claim that the implementation of the GAIP will reduce the number of parking spaces for small, single-engine aircraft to accommodate larger aircraft and thereby discriminates against the small aircraft owners. It states "[i]nstead of a reasonable allocation of space to the various types of aeronautical activity currently active on the Airport, the GAIP calls for the displacement of at least 242 small, single-engine aircraft, by eliminating hangar and parking spaces previously utilized by these small GA aircraft, for the express purpose of making that space available for an increasing number of larger jet and turboprop aircraft that Respondent hopes to attract to the Airport." (FAA Exhibit 1, Item 2, p. 3). SoCal Pilots claim "Grant [A]ssurance 22 prevents SNA from implementing plans that economically discriminate against a category or class of aircraft." (FAA Exhibit 1, Item 2, p. 7).

SoCal Pilots suggest that the operation and number of small, piston-powered aircraft, as a category of small, single-engine GA aircraft are projected to decline due to the implementation of the GAIP and for no other reason. It claims, "the County provides no genuine facts or evidence supporting its supposition that GA piston aircraft operations are on the decline for reasons other than implementation of the GAIP." (FAA Exhibit 1, Item 5, p. 4). Further, it states there are 164 aircraft on the ACI JET (one of the full-service FBOs providing tiedown and hangar space) waitlist suggesting that demand for this type and class of aircraft is not declining (FAA Exhibit 1, Item 2, p.11). The Complainant claims "[t]he County's intention is an unabashed attempt to discriminate against small aircraft to make room for jets willing to pay more in hangar rent and fuel tax which will help subsidize air carrier operations." (FAA Exhibit 1, Item 2, p. 7). Further, SoCal Pilots allege the County is using an incorrect definition of small aircraft to lump some small jets with smaller wingspans to downplay the impact to small single-engine piston aircraft owners (FAA Exhibit 1, Item 2, p. 12).

Finally, it states the “[r]espondent has chosen to circumvent the restrictions imposed by the [Airport] Settlement Agreement³ with a goal to turn the Airport into the private jet hub of Southern California.” (FAA Exhibit 1, Item 2, p. 4).

2. County’s Position

The County admits that the GAIP will eliminate 242 GA aircraft parking positions,⁴ including tiedowns and hangars, but points out that these parking positions represent the total number of GA parking positions not just those designed to accommodate small, single-engine aircraft as implied by the Complainant. It also claims that not all of the existing parking positions are occupied so the impact is much less (128 occupied parking spaces eliminated). It further states “[t]he FBOs will provide facilities to accommodate various sizes and types of general aviation aircraft and ramp space” and that “[t]he GAIP accommodates medium and large general aviation jet aircraft in 25.6 acres on SNA property and designates 35.6 acres exclusively for small general aviation aircraft.” (FAA Exhibit 1, Item 4, p. 12). The County notes “that while the Airport currently has capacity for 596 general aviation aircraft parking spaces, only 482 of them are currently used.”⁵ (FAA Exhibit 1, Item 4, p. 4).

The County states “that SoCal Pilots incorrectly states the ACI Jet waitlist for hangars, and incorrectly overstates the number of single-engine aircraft that may *eventually* be displaced.” It states, “[t]he hangar capacity for SNA will only decrease by 15 through the GAIP, and there is currently extra capacity for tie-down aprons.” (FAA Exhibit 1, Item 4, p. 10).

The County claims “single-engine aircraft numbers have been trending downward at SNA for years, and the Airport needs to reorganize its facilities to accommodate the growing sectors of its general aviation activity and meet market demand. This type of planning for future use of the Airport goes to the heart of the County’s proprietary powers and is not a violation of Grant Assurance 22.” (FAA Exhibit 1, Item 4, p.18). It states “the GAIP was designed to provide the type of facilities that best meet the future needs of the broad spectrum of aeronautical users wishing to utilize the limited space available at SNA.” (FAA Exhibit 1, Item 4, p. 5).

The County does admit it uses a different definition for small aircraft than that in 49 CFR. § 1.1 in the planning of the GAIP space allocation but states it has been consistent throughout the planning process and is not required to use the FAA’s definition. Finally, the County denies that the GAIP is designed to “attract unscheduled charter jet operations from other Southern California Airports to [r]elocate to SNA.” (FAA Exhibit 1, Item 4, p. 5).

³The ocair.com website states “The landmark 1985 Settlement Agreement formalized consensus between the County of Orange, the City of Newport Beach, the Airport Working Group (AWG) and Stop Polluting Our Newport (SPON) on the nature and extent of facility and operational improvements that could be implemented at John Wayne Airport (JWA) through 2005. The Settlement Agreement established quarterly noise limits at ten defined noise monitoring locations; created an annual passenger cap; defined certain noise-based classes of aircraft operations; and set limits on the number of operations by class. The Agreement was established prior to the 1990 Airport Noise and Capacity Act (ANCA) and operational restrictions were grandfathered.” [Settlement Agreement | John Wayne Airport, Orange County \(ocair.com\)](#)

⁴ “The County admits that the GAIP will result in a reduction of a total of 242 tie-down aprons, T-hangars, box hangars, shade structures, and FBO apron spaces” (FAA Exhibit 1, Item 4, p. 3). The County does not indicate that the reduction of these parking positions will be for small, single-engine aircraft as suggested by the Complainant.

⁵ SoCal Pilots claim that there were 596 based aircraft instead of 596 parking positions available.

3. Director's Determination

Grant Assurance 22, *Economic Nondiscrimination*, states:

It 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.

SoCal Pilots claim that the County has violated Grant Assurance 22 and discriminated against small single-engine aircraft owners by planning to eliminate a large number of parking positions for single-engine aircraft in favor of development of larger aircraft and jets. In response, the County claims that it has a right to plan and develop its Airport.

The Director agrees with the County and confirms that it does have a proprietary right to plan and develop the Airport. The Director notes that the County cites several previous Director's Determinations that support this proprietary right (FAA Exhibit 1, Item 4, pp. 18-20). The Director has found no unjust discrimination in circumstances in which an airport sponsor allows market influences to inform how to best use limited airport property from competing and various uses. *Wilson Air Center, LLC v. Memphis and Shelby County Airport Authority*, FAA Docket No. 16-99-10, Director's Determination p. 20, (Aug. 2, 2000), *aff'd*, *Wilson Air Center, LLC v. Memphis and Shelby County Airport Authority*, FAA Docket No. 16-99-10, Final Agency Decision (Aug. 30, 2001); *aff'd*. *Wilson Air Center, LLC v. FAA*, 372 F.3d 807 (6th Cir. 2004).

Likewise, *Signature Flight Support Corp. v. County of Orange*, FAA Docket No. 16-17-02, Director's Determination, p. 8 (July 21, 2017), states "A sponsor is not required to develop any and all parcels of land in a manner consistent with the wishes of any one party, but rather may exercise its proprietary rights and powers to develop and administer the Airport's land in a manner consistent with the public's interest." However, the Director notes, that planning and development that does not prioritize aeronautical use or that does not provide reasonable access to all types, kinds, and classes of aeronautical activity could result in a violation of Grant Assurance 22.

The Director recognizes the airport planning process can be complex and that in specific circumstances, such as at a constrained site, planning and development over time may result in considerable changes to the airport environment, including reasonably reducing the overall availability of facilities geared to one type of aircraft while increasing facilities for another type of aircraft. These types of changes are not uncommon, and the Director has previously determined that "[o]ne class of aeronautical user cannot expect to indefinitely lay claim to airport facilities at the expense of another class of aeronautical users or jeopardize the airport's ability to manage its facilities." [*Pacific Coast Flyers, Inc., Donnya Daubney d/b/a Carlsbad Aircraft Pilot Supply Roger Baker v. County of San Diego, California*, FAA Docket No. 16-04-08, Director's Determination p. 34 (July 25, 2025)]. Grant Assurance 22 does not guarantee – or require – that all aeronautical facilities must be available to accommodate all potential demand. In addition, Grant Assurance 22 does not guarantee that a specific type, kind, or class of aeronautical activity will not be inconvenienced in some way. Airport user access does not give users carte blanche or veto power over an airport sponsor's appropriate exercise of its proprietary powers. In fact, under

Grant Assurance 5, *Preserving Rights and Powers*, a sponsor cannot take any action that may deprive it of its rights and powers to direct and control airport development and to comply with the grant assurances.

Evaluating the specific circumstance at SNA requires reviewing the planning process and actions the County took in developing the GAIP. The record shows the County embarked on a GA facility planning process starting with the Notice of Preparation/Initial Study in March 2017 to evaluate the need for GA services at the Airport. The planning process included coordination with users including SoCal Pilots (FAA Exhibit 1, Item 2, Exhibit 1, Table 7-1). The planning and environmental review process was completed in 2019. It identified all the GAIP development projects and evaluated any potential environmental impacts in accordance with California law. The GAIP outlined its defined objectives as follows:

- To enhance safe and secure operations.
- To utilize limited land area efficiently and economically.
- To enhance compatibility between general and commercial aviation operations.
- To embrace flexibility to allow for technological advances and market trends.
- To maximize economic, self-sustaining, revenue producing facilities.
- To assess the ability of existing infrastructure to support general aviation facilities (FAA Exhibit 1, Item 2, Exhibit 1).

The GAIP provided a plan to re-develop the GA area on the Airport and as the County indicated it dedicated over 35 acres specifically for small general aviation aircraft facilities. Although this may not accommodate all small aircraft that currently base at the Airport, it does demonstrate that the County is recognizing and accommodating small aircraft as a dominant user of SNA.

The County confirms that 242 parking positions will be eliminated by the plan but notes that only 128 of these are currently occupied by based aircraft and the others are vacant. The County suggests that some loss of aircraft parking can be attributed to the need to meet the FAA taxiway design standards⁶ (FAA Exhibit 1, Item 4, pp. 12 and 17). However, some of the loss of aircraft parking positions is due to the construction of a new GA terminal, GA international terminal, and associated support services such as vehicle parking as identified on the approved Airport Layout Plan (FAA Exhibit 1, Item 10). On the other hand, the DEIR demonstrates that the County did take steps to be more efficient with the limited space such as collocating the GA terminal, and international terminal facilities (GAF) as well as consolidating the flight school activities into one location (FAA Exhibit 1, Item 2, Exhibit 1, pp. 97, 752).

SoCal Pilots state that the demand for single-engine aircraft is not declining in the manner the County asserts. The County provides historical data that – as a category of user of small general aviation aircraft - single-engine piston aircraft have been trending downward between 1997 and

⁶ The Director notes that the planning to address this issue is outdated and the ALP Narrative indicates that the need to relocate the perimeter road to meet FAA taxiway object free area (TOFA) standards is based on Engineering Brief 78 and FAA AC 150/5300-13A (FAA Exhibit 1, Item 10A, p.6-4). However, the FAA Design Guide AC 150/5300-13B update in 2022 changed the TOFA standards and reduced the necessary clearance. The Director recommends the County revisit the need to relocate the perimeter road based on the new standards. (note a new version of AC [150/5300-13B change 1](#), *Airport Design* was issued in August 2024 and is the current version. It includes the same TOFA standards as the 2022 version).

2016.⁷ In the Airport Layout Plan Narrative (FAA Exhibit 1, Item 10A, p. 19), the County provides additional historical data on the types of aircraft based within the competitive market area (CMA).⁸ This data indicates that overall single-engine aircraft have been declining in the CMA, while jet aircraft have been increasing between the years 2000 and 2018 (FAA Exhibit 1, Item 10A, table 3-2). The Director recognizes that the number of based aircraft by type fluctuates from year to year⁹ and historical trends do not always accurately predict future demand. However, a review of the historical trends is a method that is often used in based aircraft and aviation activity forecasts to support development decisions.¹⁰ Here, the DEIR forecast projects a modest increase in Jet and Turboprop aircraft which is also supported by the CMA and SNA historical trends (FAA Exhibit 1, Item 10A, Table 3-2 and Item 2, Exhibit 1, p. 888, Table 9).

In terms of the SoCal Pilots' claim that the waitlist for parking positions suggests that there is more demand for single-engine aircraft and that it is not declining, the County admits that the ACI JET has a waitlist.¹¹ The specific types of aircraft on the waitlist are not provided in the pleadings. Further, SoCal Pilots provides no evidence to indicate that the pilots on the waiting list are 1) ready and able to accept a parking position at SNA, 2) have sought and been turned away from leasing the current vacant positions, or 3) own a single-engine piston aircraft. Even if the waitlist was verified, the County is under no obligation to plan and develop facilities to accommodate the specific waitlisted aircraft. As stated above an airport sponsor has a proprietary right to plan and develop its airport. The County points out that "the GAIP projects that single-engine aircraft will still comprise more than half of the general aviation aircraft at SNA" (FAA Exhibit 1, Item 4, p. 17) and as the Director notes will still occupy the majority of the area dedicated to GA facilities.

SoCal Pilots state that the County could have chosen a different alternative that would have preserved more aircraft parking positions. A cursory review of the DEIR alternatives shows that other alternatives that include more aircraft parking positions do not include other facilities, such as the GA terminal and the international terminal (FAA Exhibit 1, Item 2, Exhibit 1, Table 1-1). The County is not required to choose the alternative that maximizes small single-engine aircraft parking positions but may make planning and business decisions based on many different factors including a demand for other GA facilities. The County states "[t]he GAIP reflects the County's exercise of its proprietary powers to develop the land at the Airport to fairly accommodate projected future growth, taking into account the public's interests as a whole rather than the wishes of any one user or category of users at the Airport." (FAA Exhibit 1, Item 4, p. 14). The Director agrees that the Airport can and should make business decisions that take into account all GA users including jets, helicopters, and single-engine aircraft, and not one specific category or

⁷ In 1997, there were 490 single-engine piston aircraft, 60 multi-engine piston aircraft, 36 jets, and 9 helicopters based at SNA. In 2016, these numbers had meaningfully shifted: there were 342 single-engine piston aircraft (a decline of 30.2%), 57 multi-engine piston aircraft (a decline of 5%), 65 jets (an increase of 80.6%), and 17 helicopters (an increase of 88.9%) (FAA Exhibit 1, Item 4, p. 13).

⁸ CMA consists of 15 airports within approximately 80 miles of SNA.

⁹ The ALP Narrative shows that between 2016 and 2020 based single-engine aircraft went up and down from a low in 2016 of 340 to a high of 373 in 2019 and then back down to 358 in 2020 (FAA Exhibit 1, Item 10A – Table 3-3).

¹⁰ The FAA Advisory Circular 150/5070-6B, p. 40, identifies review of historical trends as a methodology used in forecasting stating, "Trend Analysis and Extrapolation – Typically uses the historical pattern of an activity and projects this trend into the future."

¹¹ The County claims that "as of May 1, 2023, ACI had a hangar waitlist of 92 and a tiedown waitlist of 83." (FAA Exhibit 1, Item 4, p. 4).

user. Further, the FAA does not regulate the manner in which an airport sponsor develops its airport as long as the airport complies with its various federal obligations.¹²

The Complainant's suggestion that the County has been deceptive in using a different definition for small aircraft than what is defined in 49 CFR. § 1.1 does not appear to have any meaningful benefit to the facts in this proceeding. The County has shown it has been consistent in its definition of small aircraft – which considers weight and wingspan – and is not obligated to use the regulatory definition in its planning efforts. The Director notes that the FAA uses more than one definition of small aircraft based on different scenarios. The FAA's Air Traffic Organization has a different definition of small aircraft which is also based on weight.¹³ Further, the FAA *Airport Design Guide*, AC 150/5300-13B, suggests organizing aircraft parking areas and taxilanes based on wingspan and the minimum clearance for an aircraft parking position is also based on wingspan not on weight.¹⁴ While the County did not specifically attribute its definition to AC 150/5300-13B, it can be considered logical for planning aircraft parking positions, taxilanes, and hangars, that aircraft would be grouped by design group or wingspan as was considered in the GAIP.

The Complainant's assertion that the County is trying to circumvent a settlement agreement between the Airport and the community is not an issue before the Director as it is unrelated to the Airport's grant assurances and not within the purview of the 14 CFR Part 16 complaint process. See 14 CFR § 16.1(a). The FAA is not a party to that settlement agreement.¹⁵

¹²In *Pacific Coast Flyers, Inc., Donnya Daubney d/b/a Carlsbad Aircraft Pilot Supply Roger Baker v. County of San Diego, California*, FAA Docket No. 16-04-08, Director's Determination, p. 28 (July 25, 2025) the Director stated: "the FAA found it must rely on the sponsor's judgment and its proprietary right as the airport sponsor to achieve planned development at the airport." In *Santa Monica Airport Association (SMAA), Krueger Aviation, and Santa Monica Air Center v. County of Santa Monica, CA*, FAA Docket No. 16-99-21 Final Agency Decision, p. 19 (February 4, 2003), the Director also stated "The Director's role in determining compliance is to determine whether or not a sponsor has a program in place that reasonably adheres to its Federal obligations. While a sponsor is not obligated to agree to a specific lease proposal, a sponsor is responsible for exercising its rights and powers to be responsive to aeronautical demand to provide aeronautical facilities in a manner that is consistent with its Federal obligations."

¹³JO 7360.1D defines small aircraft as 41,000 lbs. or less maximum certificated takeoff weight while small aircraft as defined in 49 CFR 1.1 is 12,500 lbs. or less.

¹⁴FAA AC 150/5300-136B pages 5-3 and pages 5-7 indicate aircraft parking position minimum clearance are based on design group which is what the GAIP uses to define small aircraft.

¹⁵The JWA agreement website ([website link](#)) indicates the agreement is between the County of Orange, the City of Newport Beach, the Airport Working Group (AWG) and Stop Polluting Our Newport (SPON).

The Director believes the County has undertaken a planning effort that has reviewed historical trends as well as other factors as part of its decision-making process. The Director does not believe that the County's actions as of yet have risen to a violation of its federal obligations. However, two specific elements of the plan cause the Director concern. First, the GAIP calls for a very large increase in surface vehicle parking. Although vehicle parking associated with an FBO is considered an "airport purpose" from an airport land use view (*Policy Regarding Processing Land Use Changes on Federally Acquired or Federally Conveyed Airport Land*, January 8, 2024), it is also considered nonaeronautical from a lease rate perspective. The significant increase from the current 484 vehicle parking spaces to that proposed in the preferred GAIP alternative that provides 795 vehicle parking spaces (FAA Exhibit 1, Item 2, Exhibit 1, Table 1-1) and which may replace aircraft parking is a significant concern to the Director. This plan to increase vehicle parking at the expense of aircraft parking could be seen as prioritizing nonaeronautical use over aeronautical¹⁶ use which could result in a violation of Grant Assurance 22 if so argued and substantiated.

Second, the Director cautions the County to ensure that it acts in a nondiscriminatory way as it implements the plan, particularly as based aircraft are displaced. The County states "Any movement of based aircraft from the Airport to another nearby airport with capacity will occur naturally, through the leasing process: as necessary, leases for tie-down locations that expire will not be renewed by the Airport, and new FBO leases will reflect the new space limitations." (FAA Exhibit 1, Item 4, p. 14). While the Director notes that the County does not state that it will unreasonably evict currently based aircraft to implement the GAIP, it does not offer any plans on how it will address issues that may arise when the natural leasing cycle does not coincide with the development schedule or how it will reasonably accommodate based aircraft during the phases of construction.

In *Pacific Coast Flyers, Inc., Donnya Daubney d/b/a Carlsbad Aircraft Pilot Supply Roger Baker v. County of San Diego, California*, FAA Docket No. 16-04-08, Director's Determination (July 25, 2025), the Director found that the County of San Diego did not violate Grant Assurance 22 when it specifically took actions to help relocate based aircraft that were displaced due to other airport development projects. The Director stated in that Determination that "the County has, since 2003, been involved in dealing with both subtenants and PAC/Burrows in attempting to accommodate as many of PAC/Burrows displaced aeronautical users as possible. Even though there are differences between the parties as the exact number of displaced aircraft, and to some extent as to the number of available replacement hangars and tie-down spaces, the Director finds ample evidence that the County did provide reasonable access to a majority of the displaced aeronautical users" (*Id.*, at 39).

In the above referenced case, the airport was not constrained and other areas on the airport were available to accommodate displaced aircraft. At SNA, this is not the case. However, the County should develop a plan to demonstrate that it will take reasonable actions with all the aircraft owners (single-engine, multi-engine, jet, etc.) that may be displaced or impacted by the implementation of the plan. Failure to adequately plan for this contingency could result in actions that may be considered discriminatory.

¹⁶ Operating the airport for aeronautical use is not a secondary obligation; it is the prime obligation. This prime obligation includes the opportunity for leaseholders to develop airport property for aeronautical use. [See *United States Construction Corporation v. City of Pompano Beach, FL*, FAA Docket No. 16-00-14, Final Agency Decision (July 10, 2002)]

In light of the circumstances here, the Director finds that the County is not in violation of Grant Assurance 22 because the GAIP is merely a plan to redevelop Airport property.¹⁷ The County has a proprietary right to plan and develop its Airport and make business decisions taking into consideration all types of aeronautical users. The County through its planning has taken no unjustly discriminatory actions to date. However, the FAA recognizes that the County has just begun to implement the GAIP, and there are opportunities for the County to demonstrate that it is addressing the two elements described above and to continue to demonstrate compliance with its federal obligations. The County should work with all of its tenants and airport users (not just single-engine piston aircraft users) that may be negatively impacted by the proposed development contemplated in the GAIP. For example, the County should take reasonable steps to maximize user access during and after construction by allowing month-to-month leases to extend access and assist in finding accommodations for displaced aircraft even if that is at other airports. This may also include 1) reaffirming the plan during phasing to ensure the facilities in the plan are still appropriate based on any recent trends¹⁸ and still meet current FAA design standards (see footnote 6), 2) building flexibility into apron design to accommodate different users at different times based on demand, and 3) prioritizing aeronautical uses such as aircraft parking over nonaeronautical uses like vehicle parking.

In consideration of the foregoing, the Director finds that the County is not currently in violation of Grant Assurance 22, *Economic Nondiscrimination* but cautions it to take appropriate actions to maintain its compliance as it implements the GAIP.

Issue 2 – Whether the County violated Grant Assurance 22, Economic Nondiscrimination and Grant Assurance 24, Fee and Rental Structure, due to the significant increase in rental rates for tie-downs and hangars for small aircraft in excess of its operating cost increases, and thereby discriminating against that class of aeronautical user.

1. SoCal Pilots' Position

SoCal Pilots claim, “to facilitate their discriminatory plans, Respondent has also violated Grant Assurance 24 by engaging in a series of exorbitant rent increases on small GA parking spaces which fall far outside the requirements of Grant Assurance 24, i.e., to maintain the airport ‘as self-sustaining as possible.’” It states, “[s]pecifically, between 2017 and 2023, hangar rents at SNA have increased on small GA aircraft by more than 248%, while Airport expenses have risen by a mere 11.9%, thus giving the Airport a significant surplus, at the expense of a viable aeronautical use.” (FAA Exhibit 1, Item 2, p. 4). It further claims the County has “substantially

¹⁷ The County indicated that the only development thus far has been to remove existing shade structures.

¹⁸ The Director notes that the GAIP uses a base year of 2016 and therefore may be outdated and in need of reaffirmation. The Director has noted in *Pacific Coast Flyers, Inc., Donnya Daubney d/b/a Carlsbad Aircraft Pilot Supply Roger Baker v. County of San Diego, California*, FAA Docket No. 16-04-08, Director’s Determination, p. 35 (July 25, 2025) that “deviating from the [Master Plan] to accommodate changing airport conditions or new requirements, is not only permissible, but may be necessary and expected.”

increased small aircraft rents while rents for larger jet aircraft were not increased at all.” (FAA Exhibit 1, Item 2, p.13). The Complainant asserts that the rental increases are intentional to force small single-engine aircraft off the Airport to further the implementation of the GAIP. SoCal Pilots claim the County cannot use the excuse that the FBO is responsible for setting the rates. It cites the *Airport Compliance Manual*, FAA Order 5190.6B, and further states “FBOs status does not relieve the County of its obligation to ensure the terms for services the FBOs offer to aeronautical users are fair and reasonable and without unjust discrimination.” (FAA Exhibit 1, Item 5, p. 6). Finally, it claims the County has increased the taxes on the FBO leaseholds which results in higher rents to small aircraft owners and asserts that the rental increases and increased property tax “far exceed the amount of money required for the county to maintain economic viability of the airport.” (FAA Exhibit 1, Item 2, pp. 13-14).

2. County’s Position

The County states, “airport rates charged for the County’s hangars and tiedowns were last increased in 2002.” (FAA Exhibit 1, Item 4, p. 6) and “that between 2002 (and earlier) and 2016, rental rates were suppressed at the Airport and required reevaluation, and there is no requirement in the Grant Assurances or otherwise that individual rental rates must rise in lockstep with airport operating costs.” (FAA Exhibit 1, Item 4, p. 8). It further states that “[t]here are no documents in the record provided by Complainant establishing any preferential treatment granted to any other user of the Airport, much less a similarly-situated user. In fact, Complainant’s allegations demonstrate that various general aviation users have all experienced rent increases since 2016.” (FAA Exhibit 1, Item 4, p. 20). The County also claims that it no longer rents tiedowns to aircraft owners, and instead, the FBOs lease the tiedowns to the aircraft owners and are responsible for setting the rental rates. It further claims the FBOs’ revenues do not directly affect the County’s revenues or operating expenses since revenue from tiedowns, sunshades, and T-hangars are not part of the additional fees associated with the FBOs’ gross receipts and the FBOs are responsible for maintaining their leaseholds (FAA Exhibit 1, Item 4, p. 22). In regard to the tax rates, the County claims that property tax rates are unrelated to its federal grant assurances (FAA Exhibit 1, Item 4, p. 6).

3. Director’s Determination

Grant Assurance 24, *Fee and Rental Structure*, states:

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection.

SoCal Pilots allege that the County has increased hangar and tiedown rental rates significantly and the operational costs of the Airport has not increased at the same pace. It includes a copy of the Airport’s financial statements from 2017 and 2021 to show the changes in operating costs and the resulting increase in surplus revenue (FAA Exhibit 1, Item 2, Exhibits 9 and 10). It states the County’s response that the FBOs set the rates is not sufficient or in accordance with the FAA

guidance. The Director agrees with SoCal Pilots in noting that the County is responsible for meeting its federal obligations and must ensure that rates charged by the FBOs are not unreasonable or discriminatory. The record shows that ACI Jet based its increase in rental rates on the lease rates that it pays to the County to operate its leasehold. Specifically, the FBO's explanation of the hangar rental rate shows that it passes the square footage rate for buildings and land charged to it by the County to the aircraft owner (lessee) along with the taxes and a 19 percent to 25 percent **markup** (FAA Exhibit 1, Item 2, Exhibit B). The Complainant recognizes the increase in rental fees are due to the increase in the FBO lease rates charged by the County (FAA Exhibit 1, Item 1, 13). Therefore, to analyze this issue the Director reviewed the methodology used by the County to determine the FBO lease rates at the Airport.

The FAA issued a Request for Information (RFI) to the County requesting specific information regarding the lease rates, and the County provided the information¹⁹ as follows:

- Methodology used to determine the land and building lease rates for the FBOs
- Copies of the leases between the FBOs and the County
- Copies of the tax assessments for the FBOs
- An explanation of how the GA cost center residual is being used

The Director reviewed the information and found that the land and building rates included in the FBO leases were based on a County study conducted in 2018 (FAA Exhibit 1, Item 7, Tab 1A). The resulting recommendation memo, dated June 29, 2018 states, “[t]he GAIP Study reviewed the GAIP planning alternatives and calculated cost-recovery rental requirements by individual leasehold consisting of two components: (1) the land value requirement to reflect the underlying value of the land for each FBO; and (2) the JWA [SNA] operating requirement, to recover allocable direct and indirect operating expenses allocable to FBO operations and leaseholds.” (FAA Exhibit 1, Item 7, Tab 1, p. 4). The June 2018 memo recommended a land rate and various building lease rates. The latter was based on the specific structures on the leasehold. The County's response also demonstrated that both full-service FBOs that are part of the GAIP (Clay Lacy and ACI Jet)²⁰ are charged the same ground lease rate and similar building rates suggesting that similarly situated operators are charged similar rates. The Director generally does not opine on specific airport rates, but rather evaluates the methodology used to establish the rates and whether the rates are applied fairly and equitably for similarly situated operators in conformance with Grant Assurance 24 and Grant Assurance 22. Here, the methodology employed by the County is not overtly unreasonable and appears to follow common industry practices. As such, the Director is satisfied that the methodology used to determine the aeronautical lease rates for the FBOs is reasonable and is applied equally to both similarly situated full-service FBOs and SoCal Pilots fails to show differently. Also, of note, the record shows that the limited service FBO (Jay's Aircraft Maintenance) is not similarly situated to ACI Jet and Clay Lacy and is charged a lower rate, which is acceptable so long as the rate is equitably applied to other limited service or similarly situated users.

¹⁹ FAA Exhibit 1, Item 7 with attachments.

²⁰ The County indicated that Martin Aviation has a lease that has been extended through 2036 and its leasehold is not part of the GAIP.

The Director agrees with the County's assertion that SoCal Pilots provides no evidence that larger GA aircraft have not incurred similar rental increases. A review of the pleadings shows that ACI Jet determines hangar rental rates based on the per square footage rate it incurs for the building and the land, plus taxes, plus a markup (FAA Exhibit 1, Item 2A, Exhibit B). The County states "Complainant's allegations demonstrate that various general aviation users have all experienced rent increases since 2016." (FAA Exhibit 1, Item 4, p. 20 and p. 21). The Complainant provides no evidence to refute this.

The County claims that it has limited GA cost center residual revenue and any residual they do have goes into the airfield maintenance and development. It claims GA residual revenue does not go to supplement the air carriers as alleged by SoCal Pilots. The County states "[f]or FY2022-23, the County's general aviation revenue was \$10.7M (including \$3.6M in Building Rent), and its general aviation costs were \$9M, leaving \$1.7M in residual income. Any excess is applied to airfield-related capital projects because general aviation operations account for approximately 60% of Airport operations." (FAA Exhibit 1, Item 7, p. 8). The Complainant provides no evidence to refute this claim.

Further, the Director agrees with the County that comparing the increase in hangar and tiedown rental rates to the increase in the overall operating budget of the Airport is not realistic. It is not a one-to-one relationship since there are many other sources of revenue at the Airport including terminal space rentals, auto parking, terminal concessions, landing fees, etc. (FAA Exhibit 1, Item 2, Exhibit 10, p. 6).

SoCal pilots claim, "a substantial amount of the rent increases are attributable to increased property taxes by the County on Airport properties which Respondent leases to Airport FBOs" (FAA Exhibit 1, Item 2, pp. 13-14). The County claims that tax is not Airport revenue and has nothing to do with the FAA grant assurances. A review of the tax bills for the FBOs provided by the County indicates that the taxes are levied and collected by the County Treasurer/Tax Collector and not by the Airport. Each lessee is responsible for paying property taxes to the Orange County Tax Assessor. The Complainant has not provided any evidence that the property taxes assessed and collected are airport revenue, constitute illegal airport revenue diversion under 49 U.S.C. section 47107(k)(2), or are otherwise not allowable state taxes under 49 U.S.C. section 40116(e). Further, the Complainant provides no evidence that larger aircraft are not being impacted by the taxes as well. The Director agrees that the property tax is separate from Airport revenue and is unrelated to the grant assurances.

Although the declarations from the Complainants demonstrate the hangar and tiedown rental rates have increased, the Director is satisfied that the rates are based on a reasonable methodology for the cost recovery for the GA cost center as determined by the 2018 study. The record shows the ACI Jet FBO lease rate increase is passed along to the individual aircraft owners with an FBO markup. The markup does not appear to be unreasonable or discriminatory given the FBO is responsible for maintenance of the leasehold. Further, the pleadings provide no evidence to suggest that the larger aircraft have not also experienced a similar increase in rents. The complainant provides no compelling evidence to show the County has favored larger aircraft at the expense of smaller aircraft. Therefore, the Director finds that the County is not in violation of Grant Assurance 22. Further, the County is not in violation of Grant Assurance 24, *Fee and*

Rental Structure, since it has demonstrated the FBO lease rates are based on a reasonable methodology and are applied equally to similarly situated FBOs. Finally, the Complainant provides no evidence to show the County is amassing a large surplus that is directly attributed to the increase in FBO lease rates that would suggest a violation of Grant Assurance 24.

VIII. CONCLUSION

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:

1. The County of Orange is not currently in violation of Grant Assurance 22, *Economic Nondiscrimination*, by planning the GAIP and beginning to implement the plan. However, the Director cautions the County to not act in a discriminatory manner during the implementation of the GAIP, and to work with impacted aircraft owners to maximize and prolong access during and after construction to the extent possible. The Director also recommends that the County reaffirm the need for facilities during the design process; prioritize aircraft parking positions over nonaeronautical uses such as vehicle parking during implementation; provide flexibility in design to accommodate different types of aircraft as demand arises; and proactively work with displaced aircraft to assist in finding accommodations, even if it is at another airport.
2. The County of Orange is not currently in violation of Grant Assurance 22, *Economic Nondiscrimination* and Grant Assurance 24, *Fee and Rental Structure*, relative to the increase in tiedown and hangar rental fees. The County's methodology is nondiscriminatory and based on evidence that rates are reasonably related to land valuation, square footage, and cost recovery for the GA cost center. Further, there is no evidence to suggest that the rate increase has not been consistent among both small and large GA aircraft.

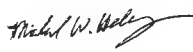
ORDER

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. 16-23-17 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: 2024.09.20
14:18:41 -04'00'

Michael Helvey
Director, Office of Airport Compliance
and Management Analysis

9/20/2024

Date