

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, D.C.**

**RECEIVED**

MAY 14 2021

<b>IBC Airways, Inc.,</b>	
<b>COMPLAINANT,</b>	
<b>v.</b>	
<b>Broward County, FL</b>	
<b>RESPONDENT.</b>	

**PART 16 DOCKETS**

**Docket No. 16-21-03**

**ORDER OF THE DIRECTOR**

**I. Introduction**

IBC Airways, Inc. (IBC/Complainant) filed a Complaint on March 10, under 14 CFR Part 16 against Broward County, Florida (County/Respondent), sponsor of the Fort Lauderdale/Hollywood International Airport. IBC alleges that it has tried to become a fixed base operator (FBO) at the airport but the County has acted in an arbitrary, capricious, retaliatory, and discriminatory manner toward IBC. [FAA Exhibit 1, Item 1, page 1]

Specifically, IBC alleges that the County violated Airport Grant Assurance 5, Rights and Powers, Grant Assurance 22, Economic Nondiscrimination, and Grant Assurance 23, Exclusive Rights by denying IBC the ability to operate as an FBO. [FAA Exhibit 1, Item 1, page 1]

On April 5, the County filed a motion to dismiss, pursuant to 14 CFR § 16.26(b)(1)(ii), asserting that the Complaint filed by IBC fails to state a claim that warrants investigation or further action by the Federal Aviation Administration (FAA).

On April 15, IBC filed a response to Respondent's motion to dismiss. IBC opposed the Motion stating, "BCAD has attempted to paint this Complaint as a contract dispute, when it is in fact an indictment of BCAD for failing to meet its obligations under the Federal Grant Assurances Program." IBC also raised a new allegation in its Response asserting the County enforced airport rules regarding derelict aircraft against the Complainant, but not any other operators. [FAA Exhibit 1, Item 4]

The County's motion to dismiss is GRANTED, and the Complaint is DISMISSED with prejudice.

## **II. The Parties**

### **a. The Airport**

The Fort Lauderdale/Hollywood International Airport (FLL) is a public airport with approximately 111 based aircraft and averages 585 operations a day. [http://www.airnav.com/airport/FLL]

The development of the airport was financed, in part, with 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 (NPIAS). 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. FLL has been the recipient of approximately \$818,974,356.00.

### **b. The Complainant**

IBC Airways, Inc., is an FAA Part 135 certificated air carrier that is authorized to transport passengers, cargo, and hazardous materials. IBC has been operating its airline since 1990. IBC has been a tenant at FLL since 2008, via a sublease. [FAA Exhibit 1, Item 1, pages 1 and 4].

## **III. Background and Procedural Process**

### **a. IBC's Position**

IBC claims the County violated Grant Assurance 5 by (1) forcing leaseholders to accept limitation on services to subtenants that conflict with the County's obligations under the grant assurances in the Grant Agreements and (2) failing to use subordination clauses in the lease.

IBC claims the County violated Grant Assurance 22 by (1) its discriminatory and retaliatory treatment of IBC over its request to operate as an FBO; (2) failing to provide lease terms and minimum standards that were provided to other FBOs; (3) unfair application of minimum standards; and (4) refusing to participate in discussions to amend the master lease to allow additional services.

IBC also claims the County violated Grant Assurance 23 by (1) refusing to participate in discussions with IBC and Aero Lauderdale<sup>1</sup> regarding permission for IBC to operate as an FBO; (2) creating an undue burden to IBC becoming an FBO, and thereby providing an exclusive right to competing FBOs; and (3) continued and pervasive obstructionist conduct towards IBC's efforts to become an FBO. [FAA Exhibit 1, Item 1, page 3]

IBC specifically alleges that the County violated the FAA Sponsor grant assurances by "forcing leaseholders to accept limitations on services and to pass those restriction on to [subtenants], thus

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<sup>1</sup> Aero Lauderdale is not a party to this Complaint. The Complainant has referred to Aero Lauderdale as "Aeroterm" in several instances. The Director will refer to this entity as "Aero Lauderdale." Aero Lauderdale is the party listed on the Master Lease. [See FAA Exhibit 1, Item 1, Attachment 7]

removing BCAD's<sup>2</sup> ability to perform any or all of the terms, conditions and assurances in the grant agreements..." IBC states that Aero Lauderdale is the Lessee in the Master Lease and the Sub-lessor to IBC as the sub-lessee. IBC claims that requiring "Aeroterm to sign a lease that prevents all sub-lessees from utilizing the airport on reasonable terms...violates the Federal Grant Assurance Program." [FAA Exhibit 1, Item 1, page 4]

In addition, IBC alleges that the County violated its obligations by "fabricating a land shortage, then fabricating a glut of FBOs, and then granting FBOs more favorable treatment...and granting access to available airport property." IBC also argues that the County refused to participate in "any three-way discussions to modify the Master Lease Agreement with BCAD." [FAA Exhibit 1, Item 1, page 4].

#### **b. The County's Position**

The County filed a Motion to Dismiss the Complaint for failure to state a claim that warrants investigation or further action by the FAA and argues as follows:

what is sufficiently clear from IBC's Complaint and the documents attached thereto is that the Master Lease, the terms by which IBC is bound, prohibits Aero's entire leasehold, and therefore IBC's subleased property, to be utilized for the operation of an FBO. [FAA Exhibit 1, Item 3, page 2].

Additionally, the County states:

Equally clear, despite IBC's allegations that County violated its Grant Assurances by placing unreasonable restrictions in its leases and wrongfully refusing to offer IBC an alternative location in which to operate as an FBO, IBC has no desire to operate as an FBO in any other location but its current leasehold where such use is not permitted... Now, in yet another attempt to avoid the unavoidable, IBC files this Part 16 Complaint asserting that County's enforcement of the terms of a nearly 20-year-old lease, to which it is not a party, violates Grant Assurances 5, 22 and 23 in an effort to have the FAA relieve it from its contractual obligations and lease (and sublease) limitations IBC was fully aware of 13 years ago. [FAA Exhibit 1, Item 3, pages 2-3]

#### **c. IBC's Response to County's Motion**

IBC filed a response opposing the motion to dismiss, and asserting that the Respondent should answer the charges in the Complaint. IBC claims that application of the law to the facts as alleged makes it clear that the County has failed to adhere to the requirements of Federal Grant Assurances 5, 22, and 23. [FAA Exhibit 1, Item 4, page 1]

IBC states that unnecessarily encumbering airport property is a violation of Grant Assurance 5, and that the issue is ripe for investigation by the FAA. [FAA Exhibit 1, Item 4, page 2]

IBC claims that the County "admits to refusing to allow the airport property to be utilized on

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<sup>2</sup> BCAD means Broward County Airport Department; BCAD manages and operates the airport via delegation from the County. [FAA Exhibit 1, Items 1 and 2]

reasonable terms and without discrimination” contrary to Grant Assurance 22. IBC states it has standing and the Grant Assurance 22 issue meets the requirement to survive a Motion to Dismiss. [FAA Exhibit 1, Item 4, page 3]

IBC further claims that the County is in violation of Grant Assurance 23 through its “documented determined efforts to discriminate against Complainant, coupled with the disparate treatment Complainant has suffered compared to similarly situated entities.” IBC asserts the issue meets the requirement to survive a motion to dismiss. [FAA Exhibit 1, Item 4, page 4]

In IBC’s response to Respondent’s motion to dismiss, IBC raised a new additional allegation claiming that the County enforced airport rules regarding derelict aircraft against the Complainant, but not other operators. IBC claims these actions violate Grant Assurances 5, 22, and 23, brings the Complaint under the purview of the FAA. [FAA Exhibit 1, Item 4, pages 1-2, and Attachment 1]

### **Part 13 Informal Complaint between the Parties.**

Both parties referenced the Part 13 Complaint and the FAA’s related informal reports. [FAA Exhibit 1, Item 1, page 4, Attachments 2 and 2A, Item 3, page 2].

On June 24, 2020, the FAA’s Southern Region issued a report in a Part 13, Informal Complaint matter filed by IBC against the County. The FAA’s Southern Region found that the County was not fully compliant with the grant assurances with regard to its engagement with IBC concerning “their desired FBO lease.” The finding asked the County to submit a plan addressing how the County “would mitigate the denial of access (the refusal to negotiate)” with regard to its obligations under Grant Assurance 22. [FAA Exhibit 1, Item 1, Attachment 2, page 8].

On November 13, 2020, the FAA’s Southern Region issued an updated informal report stating that “since your 9/17/20 letter implied that at least eight acres is available for aeronautical development at FLL now, it would normally be necessary for FLL to offer appropriate space to IBC Airways for the purpose of FBO development. However, on 9/30/20, IBC confirmed that it is not interested in operating an FBO in any location other than on and in the immediate vicinity of its current leasehold.” [FAA Exhibit 1, Item 1, Attachment 2A, page 3].

The FAA’s Southern Region confirmed that the County “was not required to change the terms of existing lease terms (or minimum standards) in order to accommodate the request by IBC to operate as an FBO on its current leasehold.” The FAA’s Southern Region considered the matter closed. [FAA Exhibit 1, Item 1, Attachment 2A, pages 3-4].

## **IV. Analysis and Discussion**

IBC contends in its Complaint that the County prevented it from operating as an FBO, and relied upon language that the County placed in the Aero Lauderdale Master Lease, to deny IBC the ability to operate as an FBO. IBC claims the County required IBC to communicate directly with Aero Lauderdale concerning their desire to operate as an FBO. [FAA Exhibit 1, Item 1, page 5].

IBC has alleged that the County violated Grant Assurance 5, Rights and Powers, Grant Assurance 22, Economic Nondiscrimination and Grant Assurance 23, Exclusive Rights. These three grant assurances are summarized below:

**Grant Assurance 5, Rights and Powers**

The owner of any airport developed with Federal grant assistance agrees to not take any action that would deprive it of any of the rights and powers necessary to perform any or all of the conditions under the airport grant agreements.

**Grant Assurance 22, Economic Nondiscrimination**

The owner of any airport developed with Federal grant assistance is required to operate the airport for the use and benefit of the public and to make it available to all types, kinds, and classes of aeronautical activity on fair and reasonable terms, and without unjust discrimination.

**Grant Assurance 23, Exclusive Rights**

An airport sponsor is prohibited from granting an exclusive right for the use of the airport, including granting an exclusive right to any person or entity providing or intending to provide aeronautical services to the public.

**Respondent's Motion to Dismiss**

The County filed a Motion to Dismiss and moved to dismiss the Complaint filed by IBC for failure to state a claim that warrants investigation or further action by the FAA, pursuant to 14 CFR §16.26(b)(1)(ii).

**Standard of Review for Motion to Dismiss**

Under 14 CFR § 16.23, a person directly and substantially affected by any alleged noncompliance may file a complaint with the FAA. The burden of proof is on the complainant to show noncompliance with a statute, regulation, order, agreement, or document of conveyance. § 16.23(k)(1). The proponent of a motion (including a motion to dismiss, or for summary judgment), request, or order has the burden of proof. See § 16.23(k)(2).

Under 14 CFR §16.26 (a), a respondent may file, in lieu of an answer to a complaint, a motion to dismiss the complaint or a motion for summary judgment on the complaint.

Under 14 CFR §16.26 (b)(1), a motion to dismiss a complaint must state the reasons for seeking dismissal of either the entire complaint or of specified claims in the complaint. To prevail, the County must show the (i) the complaint appears on its face to be outside the FAA's jurisdiction; (ii) the complaint on its face does not state a claim that warrants an investigation or further action by the FAA; or (iii) the complainant lacks standing to file a complaint under 14 CFR §§ 16.3 and 16.23. The respondent is expected to file a supporting memorandum of points and authorities. The complainant is permitted to file an answer to a motion to dismiss with a statement of reasons for opposing dismissal, per 14 CFR §16.26 (b)(3).

### **Issue 1. Grant Assurance 5, *Rights and Powers***

In its Complaint, IBC alleges that the County has refused to intervene in its lease agreement with Aero Lauderdale stating:

Aeroterm is the Lessee in the Master Lease and the [Sub-Lessor] to IBC as the sub-lessee. Requiring Aeroterm to sign a lease that prevents all sub-lessees from utilizing the airport on reasonable terms...violates the Federal Grant Assurance Program. Paragraph 5 of the Master Lease between BCAD and Aeroterm is just such a restrictive term. [FAA Exhibit 1, Item 1, page 4].

IBC claims encumbering terms in the Master Lease imposed upon all subleases violates the prohibition of encumbering airport property without the permission of the Secretary. [FAA Exhibit 1, Item 1, page 10]

In its Motion to Dismiss, the County contends it did not "force" Aero Lauderdale to accept limitations on services that can be performed by IBC. The County claims the Aero Lauderdale lease allowed certain permitted uses and prohibited others. The County states it is "axiomatic that a lessee can only confer onto a sublessee the rights conferred upon it in the original lease agreement." [FAA Exhibit 1, Item 3, page 4]

The Director agrees that this lease related claim does not warrant an investigation or further action by the FAA pursuant to 14 CFR §16.26(b)(1)(ii). The Director notes that the lease agreed to by the County and Aero Lauderdale dates from July 9, 2002. It was signed by both parties. The lease states in Section 5, Use of the Premises, that "[t]he retail sale of fuel to non-commercial operators is prohibited." [FAA Exhibit 1, Item 1, Attachment 7, page 17] It is clear from the Complaint that Aero Lauderdale is abiding by the terms of this agreement and cannot allow IBC Airways to sell fuel. It is true that IBC elected not to provide the FAA with a copy of its sublease agreement with Aero Lauderdale in its Complaint filing.

It is not a violation of Grant Assurance 5 for an airport sponsor to enforce the terms of a lease agreed to by all parties. The County is not obligated to abrogate the terms of a lease both parties agreed to in deference to the demands of a third party. The County is well within its right and powers in declining to interject itself into the lease agreement of its tenant, Aero Lauderdale, and the subtenant, IBC.

Moreover, airport sponsors are 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. [See *Jim De Vries, et al., v. City of St. Clair, Missouri*, Docket No. 16-12-07 (May 20, 2014), *ALCA, The Cylinder Shop, et al., v. Miami-Dade County, Florida*, Docket No. 16-08-05 (August 31, 2010)].

As to Grant Assurance 5, providing a restriction in a master lease that then gets passed to sublessees in no discernable way deprives the County of the power to comply with its Federal obligations.

IBC also alleges that the County continues to violate Grant Assurance 5 by failing to use strong subordination clauses in its leases. IBC states “BCAD has repeatedly claimed they are powerless to correct the Master Lease to allow for the relief of encumbrances contained in the Master Lease...This is an abrogation of BCAD’s responsibility to ensure they ‘not take or permit any action which would operate to deprive it of any of the rights and powers necessary...’” [FAA Exhibit 1, Item 1, page 8]

The County claims that the Master Lease contains a subordination clause, that IBC's argument is without legal support and, warrants no further consideration or action by the FAA. [FAA Exhibit 1, Item 3, page 6]

The Director agrees that the subordination related claim does not warrant an investigation or further action by the FAA pursuant to 14 CFR §16.26(b)(1)(ii). The Master Lease included with the Complaint filing at Attachment 7 contains the subordination clause language under Section 2 at page 9.

IBC misunderstands the purpose of subordination clauses used in lease agreements between an airport sponsor and its tenants. Subordination clauses are a method a sponsor may use to subordinate the terms of the lease or agreement to the Federal grant assurances and surplus property obligations. A subordination clause may assist the sponsor in amending a tenant lease or agreement that otherwise deprives the sponsor of its rights and powers. A typical subordination clause will state that if there is a conflict between the terms of a lease and the federal grant assurances, the grant assurances will take precedence and govern. [See, FAA Order 5190.6B, Chapter 6.6 (a)].

This does not mean that a sponsor is required to abrogate its lease with a tenant at the insistence of a third party. Grant Assurance 5 requires the sponsor to retain sufficient rights and powers to maintain adequate control of its airport. An effective way to do this is by incorporating terms in lease agreements, which then can be passed on in subleases.

Upon review of the County’s motion to dismiss and IBC’s Response, the Director finds that as to IBC claims under Grant Assurance 5, *Rights and Powers*, the Complaint on its face does not state a claim that warrants an investigation or further action by the FAA.

## **Issue 2. Grant Assurance 22, *Economic Nondiscrimination***

IBC states that it has made clear its intention to become an FBO, stating “these arbitrary, capricious, and discriminatory actions by BCAD have prevented IBC from becoming an FBO since 2008 and are a violation of Federal Grant Assurance 22.” IBC confirms that the Aero Lauderdale Master Lease prohibits the use of leased land for the retail sale of fuel. [FAA Exhibit 1, Item 1, pages 7 and 9].

IBC asserts that the County is creating an undue burden on IBC by requiring IBC to build an entirely new facility in order to become an FBO in violation of Grant Assurance 22. [FAA Exhibit 1, Item 1, page 12, Attachment 8].

In its motion to dismiss, the County states:

IBC itself made clear that it has no desire to meet the Minimum Standards to operate as an FBO at any other location other than on or in the immediate vicinity of its current leasehold where such a use is expressly prohibited by the terms of its lease. However, County has no obligation to rewrite the terms of the Master Lease with Aero. As the FAA stated in *AmAv, Inc. v. Maryland Aviation*: “The FAA does not arbitrate or mediate negotiations through a formal Part 16 proceeding. Nor does the FAA enforce lease terms between parties to an agreement. Rather, the FAA enforces contracts between an airport sponsor and the Federal government.” *AmAv, Inc. v. Maryland Aviation Administration*, FAA Docket No. 16-05-12 at pg.23. “State courts are the appropriate place for the disposition of disputes of contracts and performance under contracts.” [FAA Exhibit 1, Item 3, page 10]

IBC counters in its Response to the motion to dismiss that the encumbrances in the lease that cause the economic discrimination fall within the jurisdiction of the FAA. [FAA Item 1, Exhibit 4, page 4].

The allegations under Grant Assurance 22 stem from the County’s refusal to change its lease with Aero Lauderdale. As noted above in Issue 1, the County is not obligated to take this action. The lease terms between IBC and Aero Lauderdale do not allow IBC to provide fueling services from its existing leasehold.<sup>3</sup>

As stated under Issue 1 above, sponsors are not required to develop any and all parcels of land in a manner consistent with the wishes of any one party, and may restrict certain areas of the airport for certain activities at the exclusion of others. Negotiation and lease agreements are reasonable means by which to achieve reasonable access, however, they do not nullify FAA's obligation to assure compliance with the Federal obligations. Here the County has other land available for an FBO on the airport.

Accordingly, the County is well within its rights to decline to renegotiate an agreement with Aero Lauderdale so IBC Airways can operate as an FBO on its existing leasehold. IBC has made it clear that it is not interested in other parcels of land available for an FBO but will only accept contract changes to allow it to stay where it is and not incur the cost of building a new facility. Those arguments do not rise to a grant assurance violation by the County. Nor is it within the FAA's province in a Part 16 proceeding to engage in contractual grievances between parties.

The grant assurance obligations do not require an airport sponsor to accommodate the space demands of each aeronautical tenant at the airport. [*Edward Mainardi, Sr. v. Lincoln Park Airport, Inc.* ([FAA Docket No. 16-02-12](#)), Final Agency Decision dated October 18, 2004; *Kent J. Ashton v. City of Concord* ([FAA Docket No. 16-99-09](#)), Final Agency Decision dated July 3, 2000.]

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<sup>3</sup>IBC did not include a copy of its sublease with Aero Lauderdale, but acknowledges in the Complaint it has been a tenant at the airport since 2008 and has been attempting to operate as an FBO since 2008. [See FAA Exhibit 1, Item 1, pages 1, 4, 6, 12, and 14. Also see Item 3, page 12, reference to the sublease agreement “13 years ago.”]



Upon review of the County's Motion to Dismiss and IBC's Response, the Director finds that as to IBC's claims under Grant Assurance 22, *Economic Nondiscrimination*, the Complaint on its face does not state a claim that warrants an investigation or further action by the FAA.

### **Issue 3. Grant Assurance 23, *Exclusive Rights***

IBC alleges that:

BCAD has continued to insist they have no method or obligation to participate in a dialogue with AeroTerm and IBC in order to modify the unduly burdensome restrictions on the Master Lease, and by extension, in the IBC sublease...BCAD is intentionally excluding IBC from participating in the on-airport aeronautical activity of operating as an FBO." [FAA Exhibit 1, Item 1, pages 15-16].

In its motion to dismiss, the County states:

The mere enforcement by [the] County of Aero's existing contractual obligations does not amount to granting an exclusive right to incumbent FBOs in violation of Grant Assurance 23....The gravamen of IBC's complaint is that nearly thirteen years ago it entered into a sublease to occupy property at FLL pursuant to a Master Lease that does not, and never has, permitted an FBO operation. [FAA Exhibit 1, Item 3, pages 11-12]

IBC correctly notes in its response to the motion to dismiss that the FAA has taken the position that the application of any unreasonable requirement or standard that is applied in an unjustly discriminatory manner may constitute a constructive grant of an exclusive right. [FAA Exhibit 1, Item 4, page 4].

Based on the face of the Complaint, this is not the case here. IBC Airways is not an FBO, and expressly agreed to the lease terms in the Aero Lauderdale Master Lease that prohibit retail fuel sales.

The focus of Grant Assurance 23 is the airport as a whole and not a specific leasehold. As the Associate Administrator has held:

The exclusive rights prohibition does not guarantee an airport user the right to acquire a specific piece of private property, or access to a specific location on the airport. It does ensure that airport users have the right to access the airport to conduct commercial aeronautical activities. *Roadhouse Aviation, LLC v. City of Tulsa*, No. 16-05-08, Final Decision and Order, p. 23 (2007).

The Director agrees with the County that this is a contract issue under a sublease agreed to by both IBC and Aero Lauderdale in 2008. The County did not create an undue burden to IBC becoming an FBO. In fact, the County advised IBC that it could apply for a new lease agreement to initiate the process to request the lease of property at FLL that is conducive to fixed based operations. [FAA Exhibit 1, Item 1, Attachment 8]

The County's declination to intervene to change the terms of the Master Lease is not obstructionist conduct and does not amount to a violation of Grant Assurance 23.

Upon review of the County's Motion to Dismiss and IBC's Response, the Director finds that as to IBC's claims under Grant Assurance 23, *Exclusive Rights*, the Complaint on its face does not state a claim that warrants an investigation or further action by the FAA.

#### **Issue 4. New Issue Raised by IBC**

IBC states in its response to the Respondent's motion to dismiss, "An additional act of discrimination versus Complainant was the enforcement of airport rules regarding derelict aircraft against the Complainant, but not any other operators." [FAA Exhibit 1, Item 4, page 2, and Attachment 1].

The new issue about enforcement regarding derelict aircraft is factually different and legally distinct from the allegations raised in the Complaint and addressed in the Motion to Dismiss. Nor was this issue properly raised. As stated in 14 CFR Part 16, *Rules of Practice for Federally-Assisted Airport Enforcement Proceedings*, at section 16.23 (j), Amendments or supplements to the pleadings described in this section will not be allowed without showing good cause through a motion and supporting documents. In this case, IBC has not filed a motion or provided good cause why the Director should consider this new issue.

For these reasons, the Director will not consider this new issue.<sup>4</sup>

#### **V. Findings and Conclusion**

After consideration of the pleadings and record, the Director finds that there are no claims that warrant an investigation or further action, and the Complaint should be dismissed in its entirety as a matter of law.

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<sup>4</sup> The Director's decision to not consider this new issue does not preclude IBC from the opportunity to file a new complaint raising this issue in compliance with the 14 CFR Part 16 process, including pre-complaint resolution requirements.

**ORDER**

ACCORDINGLY, it is ordered that:

- Respondent's Motion to Dismiss is GRANTED;
- The Complaint is DISMISSED with prejudice; and
- All other Motions not specifically granted herein are DENIED.

**RIGHT OF APPEAL**

This Order of the Director is an initial agency determination and does not constitute a final agency action and order subject to judicial review. 14 CFR § 16.247(b)(2). A party to this proceeding adversely affected by the Director's Order may appeal the initial determination to the FAA Associate Administrator for Airports under 14 CFR § 16.33(c)(e) within 30 days after service of the Director's Order.

**KEVIN  
WILLIS**

Digitally signed by  
KEVIN WILLIS  
Date: 2021.05.14  
14:05:29 -04'00'

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Kevin C. Willis  
Director, Office of Airport Compliance  
and Management Analysis

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Date

**Index of Administrative Record  
FAA Docket 16-21-03  
FAA Exhibit 1**

- Item 1** Part 16 Complaint IBC, LLC v. Broward County Airport Department, dated March 10, 2021.
- Attachment 1. Certification of Substantial and Reasonably Good Faith Efforts to Resolve Disputed Matter
  - Attachment 2. Informal 14 CFR § Part 13.1 Complaint Report and Resolution, dated June 24, 2020
  - Attachment 2(a). Informal 14 CFR § Part 13.1 Complaint Report and Resolution Addendum, dated November 13, 2020
  - Attachment 3. BCAD Warning Letter, dated June 23, 2009
  - Attachment 4. BCAD Warning Letter, dated April 12, 2010
  - Attachment 5. IBC Letter to BCAD, dated February 24, 2020
  - Attachment 6. Email from Aeroterm to IBC, dated January 4, 2021
  - Attachment 7. Master Lease between Aeroterm and BCAD, dated July 9, 2002
  - Attachment 8. BCAD Letter to IBC, dated January 8, 2021
  - Attachment 9. BCAD Letter to IBC, dated February 9, 2020
  - Attachment 10. IBC Email to BCAD, dated February 7, 2020
- Item 2** Notice of Docketing for 16-21-03, dated March 16, 2021.
- Item 3** Broward County's Motion to Dismiss the Complaint for Failure to State a Claim Under Which Relief May Be Granted and Memorandum of Points and Authorities in Support, dated April 5, 2021.
- Exhibit 1. FAA letter to County, dated October 21, 2010.
- Item 4** IBC Airway's Response to Respondent's Motion to Dismiss, dated April 15, 2021.
- Attachment 1. Affirmation of Josh Newsteder, dated April 15, 2021, and attached photographs.



U.S. Department  
of Transportation

Office of Airport Compliance  
and Management Analysis

800 Independence Ave, SW.  
Washington, DC 20591

**RECEIVED**

May 14, 2021

MAY 14 2021

Mr. Alexander J. Williams  
Broward County Attorney  
Aviation Office  
320 Terminal Drive, Suite 200  
Fort Lauderdale, FL 33315

**PART 16 DOCKETS**

Mr. John J. Coomes, Esq.  
4934 Ford St. Suite 201  
Speedway, IN 46224

Re: IBC Airways, LLC v. Broward County Airport Development, Fort Lauderdale/Hollywood  
International Airport, FAA Docket 16-21-03

Dear Messrs. Williams and Coomes:

Enclosed is a copy of the Order of Director issued in the above-captioned matter under 14 CFR  
Part 16.

The Motion to Dismiss is granted and the reasons are set forth in the enclosed Order.

Sincerely,

**KEVIN** Digitally signed  
by KEVIN WILLIS  
Date:  
**WILLIS** 2021.05.14  
14:14:13 -04'00'

Kevin C. Willis  
Director, Office of Airport Compliance  
and Management Analysis

Enclosure

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 14, 2021, I sent via electronic mail and via FedEx a true copy of the foregoing Order of the Director document addressed to:

**FOR COMPLAINANT**

Mr. Alexander J. Williams  
Broward County Attorney  
Aviation Office  
320 Terminal Drive, Suite 200  
Fort Lauderdale, FL 33315  
AJWilliams@broward.org

**FOR RESPONDENT**

Mr. John J. Coomes, Esq.  
4934 Ford St. Suite 201  
Speedway, IN 46224  
JohnCoomes@CoomesLaw.com

Copy to:

FAA Part 16 Airport Proceedings Docket (AGC-600)

FAA Office of Airport Management and Management Analysis (ACO-100)



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Viola Cijntje  
Office of Airport Compliance  
and Management Analysis

Walenga, Pat (FAA)

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**From:** Cijntje, Viola E-CTR (FAA)  
**Sent:** Friday, May 14, 2021 2:20 PM  
**To:** AJWilliams@broward.org;  
JohnCoomes@CoomesLaw.com  
**Cc:** Willis, Kevin (FAA); Herson-Jones, Lorraine (FAA);  
Newman, Elizabeth (FAA); 9-AWA-AGC-Part-16 (FAA);  
Lee, Jason L (FAA)  
**Subject:** Order of Director - FAA Docket No. 16-21-03  
**Attachments:** P16\_Docket 16-21-03\_IBC Airways\_Motion to  
Dismiss\_Signed\_21.05.14.pdf; CL and POS - 16-21-03  
Motion to Dismiss.pdf  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good afternoon,

Please see attached Order of Director for FAA Docket No. 16-21-03.

Thank you.

Respectfully,

Viola Cijntje  
Administrative Support to  
Airport Compliance and Management Analysis  
Office of Airports  
Federal Aviation Administration  
55 M St, SE, Room 82-102  
Washington, DC  
202-267-3085