



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

Office of the Associate Administrator  
for Airports

800 Independence Ave., SW.  
Washington, DC 20591

**RECEIVED**

OCT 20 2021

October 20, 2021

## **PART 16 DOCKETS**

Mr. Joel A. Silversmith  
Ms. Barbara Marrin  
KMA Zuckert LLC  
888 17<sup>th</sup> Street, NW, Suite 700  
Washington, DC 20006

Mr. Eugene Mei, Esq., City Attorney  
Jaime Roth, Esq., Assistant City Attorney  
City of Longmont, Civic Center Complex  
408 3rd Avenue  
Longmont, CO 80501

Mr. W. Eric Pilsk, Esq.  
Kaplan Kirsch & Rockwell LLP  
1001 Connecticut Ave., NW, Suite 800  
Washington, DC 20036

Dear Mses. Marrin and Roth, and Messrs. Durden, Mei, and Pilsk:

Enclosed is a copy of the Federal Aviation Administration (FAA)'s Final Agency Decision with respect to *Frank Casares and the Mile-Hi Skydiving Center, Inc., v. City of Longmont, Colorado*, FAA Docket No. 16-19-03. The Associate Administrator finds the Respondent, City of Longmont, Colorado, not in violation of its Federal obligations, as set forth in the airport grant assurances and existing Federal statutes with respect to this complaint.

Accordingly, the complaint is dismissed in accordance with attached Final Agency Decision.

Sincerely,

LORRAINE M HERSON-JONES

Digitally signed by LORRAINE M  
HERSON-JONES  
Date: 2021.10.20 09:26:54 -07'00'

Lorraine Herson-Jones  
Manager, Office of Airport Compliance  
And Management Analysis

Enclosure

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

**FRANK CASARES AND MILE-HI  
SKYDIVING CENTER**

**COMPLAINANT,**

**v.**

**CITY OF LONGMONT, COLORADO**

**RESPONDENT.**



**FAA Docket No. 16-19-03**

**RECEIVED**

**FINAL AGENCY DECISION**

**OCT 20 2021**

**I. INTRODUCTION**

**PART 16 DOCKETS**

This matter is before the Federal Aviation Administration's (FAA) Associate Administrator for Airports on an Appeal filed by Frank Casares and Mile-Hi Skydiving Center (Mile-Hi/Complainant). The Complainant challenges the Director's Determination (DD) issued on January 22, 2021, which rejected Mile Hi's claims that The City of Longmont (City/Longmont/Respondent) was not in compliance with Grant Assurance 22, *Economic Nondiscrimination* and Grant Assurance 23, *Exclusive Rights*. [FAA Exhibit 2, Item 1]. Mile-Hi specifically appeals three elements of the DD which are outlined below in Section VI. [FAA Exhibit 2, Item 2, pages 1-2].

The Respondent, in its Reply to the Appeal, asserts "Mile-Hi does not challenge [the Director's] findings [which reject Mile-Hi's general claim that it was singled out and targeted for unfair treatment], but focuses its appeal on the Director's decision that the Public Use Area Permit Fee is reasonable and that the current PDZ [(parachute drop zone)] is safe. None of Mile-Hi's arguments have merit and Mile-Hi has failed to demonstrate any basis for the Associate Administrator to reverse or remand the Director's Determination." [FAA Exhibit 2, Item 3, page 1]

**II. SUMMARY OF THE DIRECTOR'S DETERMINATION**

On January 22, 2021, the Director for the Office of Airport Compliance and Management Analysis (Director) issued a DD which concluded that the Respondent was not currently in violation of Grant Assurance 22, *Economic Nondiscrimination*, by establishing a new PDZ location and size and subjecting use of the new PDZ to a per square foot nonexclusive access fee. Nor did the Director find a violation of the grant assurances by Respondent establishing a reporting mechanism for every landing outside the PDZ.

The Director also found that Longmont was not currently in violation of Grant Assurance 23, *Exclusive Rights*, because Longmont did not establish a policy of unreasonably restricting or prohibiting aeronautical activities that do not use the paved surfaces of the airport. The Director found that Longmont's skydiving per square foot fee is not arbitrary or unreasonable. In addition, the Director found that Longmont did not indiscriminately restrict the available PDZ and that its actions were not arbitrary or unreasonable in requiring an off-site reporting system.

The Associate Administrator re-examined the record, including the DD, the administrative record, and the pleadings, and affirms the DD.

### **III. PARTIES**

#### **A. Appellant**

Mile-Hi Skydiving Center, Inc., has been a commercial aeronautical user of the Vance Brand Airport (LMO) in Longmont, CO since 1995. Mile-Hi conducts commercial parachuting activities and carried an average of 40,000 jumpers each year in the three years prior to the filing of its Part 16 Complaint. Frank Casares has been the owner of Mile-Hi since 2004. [FAA Exhibit 2, Item 1, Director's Determination]

#### **B. Appellee**

The City of Longmont is the owner and airport sponsor of LMO, in Longmont, Colorado. The airport serves private aviation, commercial aviation, parachute activity, and other types of aeronautical operations, which use a variety of aircraft types, including ultralights, single and multi-engine aircraft, turbo-prop aircraft, jet aircraft, and helicopters. LMO is the base for 280 aircraft and has approximately 70,000 operations annually. [FAA Exhibit 2, Item 1, Director's Determination].

### **IV. PROCEDURAL HISTORY**

1. On January 22, 2021, the Director issued the Director's Determination. [FAA Exhibit 2, Item 1].
2. On February 22, 2021, the Complainant filed its Notice of Appeal and Brief [FAA Exhibit 2, Item 2].
3. On March 15, 2021, the City of Longmont filed Respondent City of Longmont's Reply to Complainants' Appeal. [FAA Exhibit 2, Item 3].
4. On March 24, 2021, the Complainants filed a Surreply and Motion for Leave to File. [FAA Exhibit 2, Item 4].

### **V. THE APPEALS PROCESS**

A party adversely affected by the DD may, in cases such as this, file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination [14 CFR § 16.33(c)]. The review is limited to an examination of the DD and the administrative record upon which such determination was based. The Associate Administrator does not consider new

allegations or issues on appeal unless finding good cause as to why the new issue or evidence was not presented to the Director. [14 CFR § 16.33(f)]. On appeal, the Associate Administrator will consider (1) whether the findings of fact are supported by a preponderance of reliable, probative, and substantial evidence contained in the record; (2) whether the conclusions were made in accordance with law, precedent, and policy; and (3) whether there are questions on appeal that are substantial; and (4) whether any prejudicial errors occurred. [14 CFR § 16.33(e)].

## **VI. ISSUES**

The Appellant raised three issues:

**Issue 1** – Whether the Director improperly approved a flawed fee setting methodology for the PDZ. [FAA Exhibit 2, Item 2, page 2]

**Issue 2** – Whether the Director improperly relied on discarded and nonprofessional materials. [FAA Exhibit 2, Item 2, page 6]

**Issue 3** – Whether the Director failed to address whether the reduction in the PDZ was reasonable. [FAA Exhibit 2, Item 2, page 8]

## **VII. ANALYSIS**

### **A. Preliminary Matter – Surreply and Motion for Leave to File**

On March 24, 2021, Mile-Hi filed a Surreply and Motion for Leave to File arguing that: (1) the fee-setting methodology utilized by the City for a PDZ was not reasonable or transparent; (2) certain assertions in the Reply are directly contradicted by the record, including by the City's own pleadings; and (3) the City also seriously misrepresents FAA precedent. For example, the January 8, 2008 agency letter regarding Witham Field addressed multiple issues but specifically stated that one reason an airport cannot unilaterally reduce the space available to users is "the need to enhance safety." [FAA Exhibit 2, Item 4, pages 1-2]

After review of the Surreply, it is apparent to the Associate Administrator that the allegations contained in the Surreply are also reflected in the Appeal. Therefore, the Surreply will not be considered separately but will be deliberated in the analysis of the issues set forth below.

**Issue 1** – Whether the Director improperly approved a flawed fee-setting methodology for the PDZ. [FAA Exhibit 2, Item 2, page 2]

### **A. Mile-Hi's Position**

Mile-Hi claims that a central issue to its Complaint, and to this Appeal, is that Respondent's departure from the previous fee methodology by adopting a fee structure charged on a square-foot basis was done with "virtually no explanation or substantiation" and that the Director's decision approving of this new fee structure was arbitrary and capricious. [Exhibit 2, Item 2, page 2]. Mile-Hi argues that this fee methodology has been used for activities that are

“obviously distinct” and that “airport property that is typically valued on a square-foot basis – such as hangars and office space – is limited in size, improved, and leased on an exclusive basis. In contrast, the PDZ is expansive, unimproved, and non-exclusive.” Mile-Hi asserts that “FAA’s well-established position” is “that even much smaller distinctions provide a basis for independent rate-setting.” [FAA Exhibit 2, Item 2, page 3]

### **B. Longmont’s Position**

The City argues that its Public Use Area Permit Fee is reasonable under Grant Assurance 22. It emphasized that the Director reviewed the City’s reasons for why it changed the fee structure and how it arrived at the new structure. Specifically, “the City needed to increase Airport revenue to meet operating and capital needs. It was concerned that the flat fee for the use of a large 270-acre public use area was unjustly discriminatory by charging users the same amount regardless of how much land they actually needed or used.” The City further provided:

After considering other methodologies, including a per-jump fee, the City, in consultation with the ADO<sup>1</sup> and through a public process, adopted a square-foot fee. The rate was set at 30% of the aeronautical rate for hangars to reflect the unimproved, non-exclusive use of the public use area. The rate was further modified to be available on an annual, monthly, or daily basis, allowing users to choose the size and duration of use based on their needs. [FAA Exhibit 2, Item 3, page 3]. The City argues that Mile-Hi failed to demonstrate why that explanation was unreasonable. “Instead, Mile-Hi’s argument is that the square-footage methodology is different than what other airports charge for PDZs and that the City was somehow foreclosed from using a square-foot methodology. Appeal at 3.” [FAA Exhibit 2, Item 3, page 3]

### **C. Associate Administrator’s Determination**

The DD provided a full analysis of this issue and concluded that, although Longmont’s per-square-foot charge “may not be the perfect methodology or commonly used”, “it does not rise to the level of a violation.” The Director also noted that “the weaknesses in the methodology . . . are not fatal because the methodology results in a reasonable per day and per jump outcome.” [FAA Exhibit 2, Item 1, page 12].

The Director also examined the allegation that the fee methodology violated Grant Assurance 22, *Economic Nondiscrimination*, by “reducing the size of the PDZ from 1,790,519 square feet to 338,000 square feet while increasing charges from \$7,900 to \$36,267.40” which, according to Mile-Hi, “restricts users from access to the airport.” [FAA Exhibit 2, Item 1, page 11]. The City argued that its actions did not restrict access to LMO and that such actions were within Longmont’s discretion to charge a reasonable fee for the use of the PDZ and that it is part of its responsibility to set the size of a suitable PDZ. [FAA Exhibit 2, Item 1, page 11].

The Director explained that in establishing the new fee structure, Respondent considered multiple alternatives “including a proposal by the FAA Denver Airport District Office (ADO) setting the rate at 60% of the ground lease rate for hangars” but “ultimately set the fee at 30% of

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<sup>1</sup> FAA Airport District Office

the ground lease rate for hangars” which it believes is reasonable “for undeveloped public-use land.” [FAA Exhibit 2, Item 1, page 12]. The Director noted that it is not the role of the FAA to approve, set, or otherwise determine rates or charges. The FAA’s role is limited to review reasonableness, especially as it relates to methodology, within the context of the applicable federal obligations.

Mile-Hi alleges that the Director “facially erred by upholding as reasonable a methodology that was almost entirely unsubstantiated . . . not transparent and provided no further justification.” [FAA Exhibit 2, Item 2, page 6.]. However, Mile-Hi did not indicate what they believe would be an acceptable methodology. The Director noted in the determination that, “[t]he record suggests that Mile-Hi would not be willing to pay more than \$10,000 annually.” [FAA Exhibit 2, Item 1, page 10].

Previous Part 16 cases cited by Mile-Hi are not on-point. Specifically, *Skydive Sacramento v. City of Lincoln*, FAA Docket 16-05-09, and *Brown Transport v. City of Holland*, FAA Docket 16-09-09, dealt with liability insurance, not rates per square foot for land. In both cases, liability rates were examined to determine if the costs acted as a barrier to access.

A review of the DD shows that a sound examination of the fee structure was completed. It provided:

The Director agrees with Longmont that it is the airport’s responsibility to consider what a reasonable fee is for the jumpers and/or their organizations to pay for using airport property. Previous FAA determinations support the premise that airports may set their own rates for skydiving activities if those rates are reasonable.<sup>2</sup> Aeronautical rates, including leasing rates, do not have to be the same for all users, but the airport sponsor should be able to identify methodologies that explain differences.<sup>3</sup> The record shows that there was a series of valid reasons for Longmont to adjust the PDZ permit rate. [FAA Exhibit 1, Item 6, pp. 5 and 30].

[FAA Exhibit 2, Item 1, page 11]. Mile-Hi has not advanced an argument on appeal that is sufficient to overturn the Director’s findings. Specifically, Mile-Hi has not demonstrated that the methodology used by the City to adjust the PDZ permit rate is unreasonable, or results in an unreasonable fee. It is clear Mile-Hi disagrees with paying a higher rate for use of the PDZ, but the rate set by the City does not rise to a grant assurance violation. However, in this case, the City may have been able to raise Mile-Hi’s rate in a more measured or phased approach. Rates and charges for use of airport property vary nationwide and by use. Each airport must set fees that will make it as self-sustaining as possible under the circumstances existing at that particular airport. [See, FAA Grant Assurance 24, *Fee and Rental Structure*]

<sup>2</sup> See e.g., *Skydive Myrtle Beach, Inc. vs. Horry County Department of Airports, South Carolina*, FAA Docket No. 16-14-05, Director’s Determination (Oct. 7, 2015) Pages 39, 42; *Skydive Monroe, Inc. vs. City of Monroe, Georgia*, FAA Docket No. 16-06-02 (Mar. 30, 2007) Pages 5, 14. FAA guidance also supports this premise. See FAA Order 5190.6B, ¶¶ 17.9, 17.10; Advisory Circular 5190-7, *Minimum Standards for Commercial Aeronautical Activities*, (August 28, 2006) ¶2.1(f)(4).

<sup>3</sup> *Aircraft Management Services, Inc., v. Santa Rosa County, Florida*, FAA Docket No. 16-12-02, Director’s Determination, (Jan 1, 2016) Page 25.

The Associate Administrator finds that after a review of the record that the conclusions in the DD were made in accordance with law, precedent, and policy. The Director did not err in his analysis of the rate setting methodology use by the City of Longmont.

**Issue 2 - The Director improperly relied on discarded and nonprofessional materials.** [FAA Exhibit 2, Item 2, page 6]

#### **A. Mile-Hi's Position**

Mile-Hi argues that “in approving the current PDZ at LMO, the City (and, subsequently, the FAA) relied on materials which are inconsistent with the recommendations of the USPA for a PDZ – the recognized gold standard.” [FAA Exhibit 2, Item 2, page 6]. In particular, Mile-Hi states that “the City cited a rejected draft of an advisory circular, along with a technical report that was not and did not purport to be prepared by an expert in skydiving matters” and that the Director “tacit[ly] approv[ed]” of those sources. *Id.*

Mile-Hi therefore argues that “[a]s a result, the Director’s conclusion which follows from that deficient analysis– i.e., that the City is in compliance with its grant-based obligations to the FAA – is unreliable, and this matter at a minimum should be remanded for further consideration, if not reversed.” [FAA Exhibit 2, Item 2, page 6]

#### **B. Longmont's Position**

In its Reply to the Appeal, the City argues:

Mile-Hi continues its quixotic Appeal by again conceding that it does not challenge the size of the PDZ or that it is safe, but then argues that the Director somehow failed to evaluate whether the City violated some unidentified compliance standard by reducing the size of the PDZ, Appeal at 8-10. If the resulting PDZ is safe and appropriately sized, then the reduction cannot be unsafe. Mile-Hi offers no reason to conclude otherwise. [FAA Exhibit 2, Item 3, page 11]. Additionally, the City states, “Indeed that is exactly what the Director held. Contrary to Mile-Hi’s argument on Appeal, the Director *did* consider whether the City acted reasonably in changing the size of the PDZ. Director’s Determination at 13. The Director affirmed the City’s authority to “change or designate the location and size of an on-airport PDZ.” *Id.* He then noted that the new 338,000 square-foot PDZ was safe and that Mile-Hi had presented no evidence to show a violation of Assurance 22.” *Id.*

#### **C. The Associate Administrator's Determination**

The Associate Administrator finds that the Director did an extensive analysis of the size and consequent safety of the PDZ using the FAA’s Office of Airport’s agreed-upon protocol in coordination with FAA Flight Standards, General Aviation and Commercial Division (AFS-800). The Director did not rely on USPA standards or other technical reports mentioned by Mile-Hi in making his decision. In fact, the Director supported this analysis with an exhaustive examination of FAA’s role in airport safety. The Director stated:

As a result, and pursuant to 14 CFR § 16.29, the Director sought the assistance of FAA Flight Standards' General Aviation and Commercial Division (AFS-800), as part of its investigation. The following report by AFS-830, presented below in its entirety to eliminate ambiguity and misinterpretation, discusses and makes findings on several of the safety issues discussed in the pleadings. The Director concurs with and supports AFS-830's assessment.

[FAA Exhibit 2, Item 1, page 8]. The Director additionally stated:

Flight Standards found that "safe skydiving operations can take place in the current 338,000 square feet PDZ" and that "there are no inherent unsafe conditions because of the PDZ location or size." Flight Standards found that "existing FAA regulations and guidance, along with establishing appropriate SOPs, and ... adequate and balanced operational requirement[s]" were sufficient to maintain safety in the new configuration. [FAA Exhibit 1, Item 21].

[FAA Exhibit 2, Item 1, page 9]. Although the Director identified the materials cited by Longmont, to which Mile-Hi objects, this acknowledgement does not constitute "tacit approval" or an endorsement of those sources. The Director acknowledged that it is "Longmont's right as a proprietor to change or designate the location and the size of on-airport PDZ." [FAA Exhibit 2, Item 1, page 13]. It was Mile-Hi's burden to prove a violation, and it failed to "persuade the Director that 338,000 square-feet is too small for a PDZ, how such a PDZ would be unsafe, or how setting the size of the PDZ at 338,000 square feet would in any way limit the access to a user or potential user of LMO." *Id.* In fact, Mile-Hi acknowledges that the 338,000 square-foot PDZ meet minimum safety standards. [FAA Exhibit 2, Item 2, page 8].

On Appeal, Mile-Hi reiterates its objection to the size of the PDZ but fails to carry its burden of demonstrating that the square footage methodology is unreasonable or results in conditions that fail to meet minimum safety standards. In the absence of evidence that the Director erred in his analysis of the size reduction of the PDZ, the Associate Administrator cannot reverse or remand this issue as requested by Mile-Hi. It is clear that Mile-Hi objects to the size of the PDZ and to how the ultimate size was determined but it has not presented evidence of a safety risk or use of unprofessional or discarded materials.

The Associate Administrator finds that after a review of the record the conclusions in the DD were made in accordance with law, precedent, and policy. The Director did not err in his analysis or in the use of supportive materials and in the guidance and findings presented by AFS-830.

**Issue 3 -The Director failed to address whether the reduction in the PDZ was reasonable.**  
[FAA Exhibit 2, Item 2, page 8]

#### **A. Mile-Hi's Position**

In its Appeal, Mile-Hi acknowledges that "the current PDZ at LMO meets minimum standards of safety, despite its noncompliance with the USPA BSRs (and, derivatively, FAA standards)."



[FAA Exhibit 2, Item 2, page 8]. However, it asserts that the fact “that skydiving at the airport is safe does not end the FAA analysis of the City’s compliance with its federal obligations” and this issue, according to Mile-Hi “was not addressed by the Director.” *Id.*

Mile-Hi contends that by “arbitrarily reduc[ing] the size of the PDZ at LMO”, the City “has radically reduced the relative safety for skydivers at the airport.” *Id.* Mile-Hi argues that the Director “fail[ed] to address this issue – and to require justification for actions taken by the City that degrade the safety of skydiving at LMO, even though skydiving at LMO remains safe” and that this failure by the Director “was erroneous and unjustified.” *Id.*

### **B. Longmont’s Position**

Respondent states that “Mile-Hi’s appeal is fundamentally illogical and undermined by its admission that . . . ‘the current PDZ at LMO meets minimum standards of safety.’” [FAA Exhibit 2, Item 3, page 9]. Furthermore, the PDZ was investigated by Flight Standards (AFS-830) who reached an authoritative conclusion that the PDZ is safe, which Mile-Hi does not contest. Therefore, the City argues, Mile-Hi’s appeal lacks merit. The City further argues that the size of the PDZ was not an issue in the proceedings and Mile-Hi is therefore precluded from raising it now.

### **C. The Associate Administrator’s Determination**

The DD (page 10), provided an analysis of the PDZ Location, Dimensions, and Reporting System. On appeal, Mile-Hi does not allege that the new PDZ fails to meet minimum safety standards or failed to meet any regulatory or policy criteria. Rather, Mile-Hi now argues that the “City arbitrarily reduced the size of the PDZ at LMO, and by so doing has radically reduced the relative level of safety for skydivers at the airport.” [FAA Exhibit 2, Item 2, page 8]. However, that claim is in direct contradiction with its concession that “the current PDZ at LMO meets minimum standards of safety”. *Id.*

Mile-Hi also admits that “[a]n airport does have some discretion in designating the location of a PDZ. *See, e.g., Sport Parachuting*, Advisory Circular 105-2E, § 6(c)(2). But as for other actions taken by airports, the grant assurances require that the discretion be exercised reasonably.” [FAA Exhibit 2, Item 2, page 8].

After review of the arguments presented by Mile-Hi and the City, the Associate Administrator is not persuaded that the Director erred in his analysis regarding the size of the PDZ and its consequent level of safety. Mile-Hi admits that the current size of the PDZ meets minimum safety standards. An airport sponsor has the discretion to identify, relocate or otherwise adjust resources to accommodate its users, which Mile-Hi acknowledges. [FAA Exhibit 2, Item 2, page 8].

Access to the PDZ and the airport has not been denied to Mile-Hi. Mile-Hi is operating on LMO and is using the PDZ as their lease with the City allows. The Associate Administrator affirms the finding made by the Director that the City is not currently in violation of Grant Assurance 22, *Economic Nondiscrimination*, or Grant Assurance 23, *Exclusive Rights*.

## **VII. CONCLUSIONS AND FINDINGS**

The Associate Administrator's role in this appeal is to determine whether the Director erred in findings of fact or conclusions of law in issuing the DD. The Associate Administrator finds no such error in the DD.

Specifically, upon appeal of a Part 16 DD, the Associate Administrator must determine whether: (a) the findings of fact made by the Director are supported by a preponderance of reliable, probative; and substantial evidence, (b) each conclusion of law is made in accordance with applicable law, precedent, and public policy; (c) the questions on appeal are substantial; and (d) any prejudicial errors occurred. [14 CFR § 16.33(e)].

In arriving at a final decision in this appeal, the FAA has reexamined the record, including the DD, the supporting administrative record, parties' filings on appeal, and applicable law and policy. Based on this reexamination, the Associate Administrator concludes that the DD is supported by a preponderance of reliable, probative, and substantial evidence, and is consistent with applicable law, precedent, and the FAA policy. The appeal does not raise persuasive arguments sufficient to reverse any portion of the DD.

Accordingly, the DD is affirmed. This decision constitutes a final agency decision of the Associate Administrator pursuant to 14 CFR § 16.33.

**ORDER**

**ACCORDINGLY**, it is hereby **ORDERED** that (1) the Director's Determination is Affirmed, and (2) the Appeal is dismissed pursuant to 14 CFR § 16.33.

All other Motions not specifically granted herein are **DENIED**

**RIGHT OF APPEAL**

A party to this decision disclosing a substantial interest in the Final Decision and Order of the Federal Aviation Administration may file a petition for review pursuant to 49 U.S.C. § 46110, in the United States Court of Appeals for the District of Columbia Circuit or in the Court of Appeals of the United States for the Circuit in which the person resides or has its principal place of business. The petition must be filed no later than 60 days after a Final Decision and Order has been served on the party. [14 CFR § 16.247(a)].

SHANNETTA R GRIFFIN Digitally signed by SHANNETTA R GRIFFIN  
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Associate Administrator  
for Airports

\_\_\_\_\_  
Date

**Index of Administrative Record - Exhibit 2**  
**FAA Docket No. 16-19-03**

Item 1 – Director’s Determination, dated January 22, 2021.

Item 2 – Notice of Appeal and Brief filed by Frank Casares and Mile-Hi Skydiving Center on February 22, 2021.

Item 3 – Respondent City of Longmont’s Reply to Complainants’ Appeal filed March 15, 2021.

Item 4 – Surreply and Motion for Leave to File filed by Frank Casares and Mile-Hi Skydiving Center on March 24, 2021.

## INDEX OF ADMINISTRATIVE RECORD

### FAA Exhibit 1

Item 1 – 14 CFR Part 16 Complaint filed by Frank Casares and Mile-Hi Skydiving Center, Inc. on March 8, 2019.

Exhibit 1 Affidavit of Frank Casares.

- Exhibit A Google Earth Pro screenshot.
- Exhibit B Google Earth Pro screenshot (Exhibit B is also labeled “Exhibit A”).
- Exhibit C Google Earth Pro screenshot (Exhibit C is also labeled “Exhibit B”).
- Exhibit D Longmont City Council Study Session Excerpt dated 2-19-19.  
Unmarked Exhibit, Vance Brand Development Report.
- Exhibit E Google Earth Pro screenshot.

- Exhibit 2 City Council Communication dated September 11, 2007.
- Exhibit 3 Citizens for Quiet Skies v. Mile-Hi Skydiving decision dated May 21, 2015.
- Exhibit 4 Excerpt from Longmont Rules and Regulations.
- Exhibit 5 Letter dated October 29, 2018, from the City Manager to Frank Casares.
- Exhibit 6 Letter dated November 1, 2018, from Bryan Biesterfield to Jamie Roth.
- Exhibit 7 E-mail exchange November 1-6, 2018, between Bryan Biesterfield and Jamie Roth.
- Exhibit 8 Longmont Airport Advisory Board Meeting dated 2-14-2019.
- Exhibit 9 Longmont City Council Meeting Excerpt dated 3-15-16.
- Exhibit 10 Longmont City Council Meeting Excerpt dated 5-10-16.
- Exhibit 11 Longmont City Council Meeting Excerpt dated 6-14-16.
- Exhibit 12 Longmont City Council Study Session Excerpt dated 9-20-16.
- Exhibit 13 Minutes, Airport Advisory Board June 8, 2017, Excerpt.
- Exhibit 14 Minutes, Airport Advisory Board July 13, 2017, Excerpt.
- Exhibit 15 Minutes, Airport Advisory Board August 10, 2017, Excerpt.
- Exhibit 16 Longmont City Council Meeting Excerpt dated 12-19-17.
- Exhibit 17 City Council Communication dated December 19, 2017.
- Exhibit 18 Longmont City Council Meeting Excerpt dated 8-14-18.
- Exhibit 19 Unidentified minutes summary.
- Exhibit 20 Letter from David Slayter to Frank Casares dated February 12, 2019. Attachment Notice of Press Release.
- Exhibit 21 Notice of Violation dated February 15, 2019.
- Exhibit 22 Notice of Violation dated March 5, 2019.

Item 2 - FAA Notice of Docketing dated April 1, 2019.

Item 3 – Respondent City of Longmont’s Motion for Extension of Time to Respond to the Complaint filed April 15, 2019.

Item 4 - FAA Order Extending Time dated April 25, 2019.

Item 5 – Respondent City of Longmont’s Answer to Complaint filed June 17, 2019.

Exhibit 1 Letter dated March 8, 2019, from Richard J. Durden, Esq., to FAA with Part 16 Complaint attached with numbered paragraphs.

Item 6 – Respondent City of Longmont’s Brief in Support of Answer filed June 17, 2019.

Exhibit 1 Professional Resume of David G. Slayter.  
 Exhibit 2 City of Longmont Ordinance O-2016-42, Airport Rules and Regulations.  
 Exhibit 3 Mile-Hi Skydiving Center brochure.  
 Exhibit 4 Aerial photograph depicting Mile-Hi leased areas.  
 Exhibit 5 Aerial photograph depicting Pre-December 2017 Parachute Landing Area,  
 Exhibit 6 Draft - Comparative Analysis of Fee Structure and Rate for Skydive Operators.  
 Exhibit 7 Minutes, Airport Advisory Board, June 8, 2017.  
 Exhibit 8 Minutes, Airport Advisory Board, July 13, 2017.  
 Exhibit 9 Minutes, Airport Advisory Board, August 10, 2017.  
 Exhibit 10 Minutes, Airport Advisory Board, October 12, 2017.  
 Exhibit 11 Minutes, Airport Advisory Board, December 14, 2017.  
 Exhibit 12 City Council Proceedings, December 19, 2017.  
 Exhibit 13 Aerial photograph depicting Mile-Hi Designated Parachute Landing Area,  
 Jan 2018-Oct 2018.  
 Exhibit 14 Aerial photograph depicting Current Parachute Landing Area, Nov 2018-Present.  
 Exhibit 15 Letter dated October 29, 2018, from the City Manager to Mile-Hi Skydiving  
 Center, Inc.

Exhibit A Photograph depicting Parachute Landing Areas.  
 Exhibit B Photograph depicting Parachute Landing Area.

Exhibit 16 Four photographs.  
 Exhibit 17 Three photographs.  
 Exhibit 18 Two photographs.  
 Exhibit 19 Spreadsheet entitled, “Unauthorized – Offsite Landings.”  
 Exhibit 20 Five photographs.  
 Exhibit 21 Technical Report, Safety Risk Assessment for Skydiving Activities at LMO,  
 May 2019.  
 Exhibit 22 Minutes, Airport Advisory Board, February 14, 2019.

Item 7- Complainants’ Unopposed Motion for Extension of Time to Reply to Respondent’s  
 Response to the Complaint filed June 20, 2019.

Item 8 – Complainants’ Reply in Support of their 14 CFR Part 16 Complaint filed July 8, 2019.

Exhibit 23 Supplemental Affidavit of Frank Casares, Exhibit F, Four photographs.  
 Exhibit 24 FAA letter dated April 3, 2015, with attachments to Chatham Town Manager.

Exhibit 25 Longmont City Attorney letterhead entitled, “Suggested Procedure for Convening an Executive Session, City Council Study Session Room, June 2, 2015 at 5:30 p.m.”

Exhibit 26 Web page of Airnav.com with LMO data.

Exhibit 27 Affidavit of Edward M. Scott dated June 20, 2019.

Exhibit 28 Mile-Hi Skydiving Center Comments on Dr. Byers Longmont Airport Safety Review.

Unnumbered attachment p. 14-2 of FAA Order 5190.6B.

Unnumbered attachment p. 10 of FAA AC 150/5190-7.

Unnumbered attachment p. 7 of USPA BSR.

Unnumbered attachment p. 17 of draft Skydiving Activities Analysis.

Unnumbered attachment Photograph labeled “Attachment – 8.”

Unnumbered attachment pp.14-18 of an apparent Director’s Determination.

Item 9 – Complainants’ Motion for an Interim Cease and Desist order filed June 10, 2019.

Exhibit A E-mail dated March 26, 2019, from David Slaytor.

Exhibit B Preliminary Safety Risk Assessment.

Exhibit C Mile-Hi’s written comments to Longmont.

Unnumbered attachment p. 14-2 of FAA Order 5190.6B.

Unnumbered attachment p. 10 of FAA AC 150/5190-7.

Unnumbered attachment p. 7 of USPA BSR.

Unnumbered attachment p. 17 of draft Skydiving Activities Analysis.

Unnumbered attachment Photograph labeled “Attachment – 8.”

Unnumbered attachment pp.14-18 of an apparent Director’s. Determination.

Exhibit D Town Hall participant Feedback.

Exhibit E E-mail exchange dated May 22-23, 2019, between David Slayter and Melinda Jordan.

Exhibit F City of Longmont, Lease of Aviation Land for Hangar/Business/Aviation Development at Vance Brand Municipal Airport, RFP-MD-19039, Addendum No. 1, March 20, 2019.

Unnumbered attachment Excerpt, page 13 of 14.

Exhibit G E-mail dated March 8, 2019, from David Slater to Frank Casares.

Exhibit H E-mail dated June 3, 2019, from David Slater to Frank Casares.

Item 10 – Respondent City of Longmont’s Opposition to Motion for Cease and Desist Order filed June 25, 2019.

Item 11 – Respondent City of Longmont’s Unopposed Motion for Extension of Time to File Rebuttal to the Complaint filed July 9, 2019.

Item 12 – Respondent City of Longmont’s Rebuttal in Support of Answer filed July 30, 2019.

Item 13 - FAA Form 5010 for LMO.

Item 14 - FAA grant history for LMO.

Item 15 - Deleted.

Item 16 - Deleted.

Item 17 - Deleted.

Item 18 - Deleted.

Item 19 - Deleted.

Item 20 – Complainants’ Emergency Motion for Relief from Denial of Airport Access Expedited Consideration and Ruling Requested filed August 26, 2019.

Item 21 – Skydiving at Vance Brand Airport (LMO), Longmont Colorado Vance Brand Airport (LMO) (FAA Docket No. 16-19-03), Memorandum from Manager, AFS-830 to Manager, ACO-100, dated September 15, 2020.

Item 22 – Complainants’ Motion to File an Amended Complaint filed April 10, 2020.

Exhibit A Complainants’ Amended Complaint filed April 10, 2020.

Item 23 – Deleted.

Item 24 – Respondent City of Longmont’s Opposition to Complainants’ Motion to File Amended Complaint filed April 17, 2020.

Item 25 – Respondent City of Longmont’s Answer to Complaint filed June 17, 2020.



## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 20, 2021, I sent via electronic mail and via FedEx a true copy of the foregoing document addressed to:

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FAA Part 16 Airport Proceedings Docket (AGC-600)

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



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Natalie Curtis  
Office of Airport Compliance  
and Management Analysis