

Special Review

Metropolitan Airports Commission Reliever Airport Leasing and Hangar Use



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Members of the Metropolitan Airports Commission

We have conducted a special review of the Metropolitan Airports Commission's lease practices and hangar usage at the six reliever airports. We conducted this review in response to complaints alleging improper use of airport hangars at the Anoka County-Blaine airport, as well as concerns regarding the commission's practices regarding aircraft leases. Specifically, the allegations involved inequities in the selection process for leased space and inappropriate use of hangars for non-aviation storage and business-related activities. These issues were also the subject of a media report in January 2003. Based on preliminary information obtained, we decided to pursue the matter further and issue a special report. We emphasize that this has not been a comprehensive review of the Metropolitan Airport Commission's financing of reliever airports, nor did it include leasing practices and use of hangars at the Minneapolis-St. Paul International Airport.

The following Summary highlights our objectives and conclusions. We discuss the issues involved more fully in the individual chapters of this report.

This report is intended for the information of the Legislative Audit Commission and the management of the Metropolitan Airports Commission. This restriction is not intended to limit the distribution of this report, which was released as a public document on October 2, 2003.

/s/ James R. Nobles

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Legislative Auditor

/s/ Claudia J. Gudvangen

Claudia J. Gudvangen
Deputy Legislative Auditor

End of Fieldwork: June 2, 2003

Report Signed On: September 29, 2003

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Exit Conference

The following representatives from the Metropolitan Airports Commission participated in the exit conference held on September 16, 2003.

Tim Anderson	Deputy Executive Director – Operations
Denise Kautzer	Deputy Executive Director – Administration
Pam Rasmussen	Deputy General Counsel
Mitchell Kilian	Governmental Affairs Manager
Gary Schmidt	Director of Reliever Operations
Kelly Gerads	Manager of Administration, Reliever Airports
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Greg Fries	Manager, St. Paul/Lake Elmo Reliever Airports

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Report Summary

We conducted a special review of the Metropolitan Airports Commission's (MAC) reliever airport hangar use and ground leasing practices. MAC owns and operates six reliever airports throughout the Twin Cities area. It leases airport land to individuals or businesses that build privately owned hangars for aircraft storage and commercial aviation purposes.

A hangar owner at the Anoka County-Blaine Airport, and other interested parties, raised concerns about usage and leasing of privately owned hangars on MAC reliever airport property. The individual alleged conflict of interest and violation of MAC policies regarding hangar leasing and misuse of hangars for personal living, non-aviation storage, and business operations. As a result, we performed an investigation to answer the following questions:

- Did the Metropolitan Airports Commission have an adequate process for awarding and monitoring lease agreements and monitoring hangar usage at the reliever airports?
- Were aircraft hangars at the reliever airports used in accordance with the MAC policies, rules and regulations, and lease agreements?

Key Conclusions

Overall, we did not find evidence of widespread problems with MAC reliever airport hangar leasing and use. The commission properly awarded ground space leases and, for the most part, tenants stored aircraft and aviation-related items in their hangars. However, we made some suggestions for improvements in MAC's practices for monitoring ground leases and hangar use.

Aircraft storage leases were properly offered to those on waiting lists. However, the commission did not execute one lease until after the hangar was constructed. Also, the subsequent transfer of the same lease was not done in a timely manner, creating the impression that those on the waiting list were not given proper priority. Since this incident, MAC has initiated a tracking system for monitoring unexecuted leases.

From our inspection of 54 hangars, we found that owners were mainly storing aircraft and aviation-related items in the hangars. The reliever airport staff adequately enforced compliance with MAC requirements when issues and concerns came to their attention. However, we noted the following concerns:

- Five of 54 hangars had either exceeded or were close to the 25 percent limitation for storage of non-aviation items, such as cars and boats. We recommended that MAC implement routine hangar use inspections, or coordinate with its ongoing environmental inspections, to deter excessive storage of these items.
- One MAC commissioner with a storage hangar at the Anoka County-Blaine airport, contracted with another tenant to provide repair services. This type of arrangement typically requires a commercial lease with MAC receiving a percentage of revenue.

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Special Review: Metropolitan Airports Commission Reliever Airport Leasing and Hangar Use

Chapter 1. Introduction

We conducted a special review of the Metropolitan Airports Commission's (MAC) reliever airport lease practices and hangar use. The commission is a public corporation established by the Legislature in 1943 to develop and operate airport facilities in the Twin Cities area. The commission consists of 14 commissioners and a chairperson. The commission establishes various policies to govern its operations and fulfill its statutory responsibilities. In addition to the Minneapolis/St. Paul International Airport, the commission owns and operates six reliever airports throughout the Twin Cities metropolitan area, including:

- Airlake Airport (located in Eureka Township and the City of Lakeville),
- Anoka County-Blaine Airport (located in City of Blaine),
- Crystal Airport (located in three cities: Crystal, Brooklyn Park and Brooklyn Center),
- Flying Cloud Airport (located in City of Eden Prairie),
- Lake Elmo Airport (located in Baytown Township), and
- St. Paul Downtown Airport (located in City of St. Paul).

The reliever airports increase the efficiency and safety of the area aviation system by diverting some air traffic from the Minneapolis-St. Paul International Airport (MSP) and providing an alternative location to the main airport for private and corporate flights. The 1996 Legislature required MAC to "develop and implement plans to divert the maximum number of general aviation operations" from MSP to reliever airports.

MAC leases property at each reliever airport for the construction of private hangars to store airplanes. A hangar owner finances the hangar construction and also pays insurance, property taxes, and any sanitary water and sewage installation costs. MAC has also designated certain property at each airport for commercial use to conduct aviation-related business. MAC prepares written agreements with tenants for aircraft storage and commercial use. There currently is a waiting list to get a ground lease at certain reliever airports.

In October 2002, a complainant raised several concerns regarding the commission's management of airport hangar leases at the Anoka County-Blaine Airport. Specifically, the concerns alleged inequities in the selection process for leased space, use of storage hangars for non-aviation related activities or living quarters, improprieties regarding specific leases, and finally, concerns regarding potential conflicts of interest by commissioners. In January 2003, a local newspaper article alleged that airport hangars were being used inappropriately for business activities, non-aviation storage, and personal living quarters. In May 2003 another complainant raised concern about storage of non-aviation related items in airplane storage hangars.

Reliever airport revenues comprise about 1.5 percent of MAC's annual operating revenues. MAC operating revenues and expenses for the fiscal year ending December 31, 2002, totaled \$170,611,000 and \$157,196,000, respectively, as reported in its most recent financial statements. Table 1-1 shows the revenue and expenses for each individual reliever airport.

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**Table 1-1
Reliever Airports Revenues and Expenses
Fiscal Years 2000 to 2002**

	<u>St. Paul</u>	<u>Lake Elmo</u>	<u>Airlake</u>	<u>Flying Cloud</u>	<u>Crystal</u>	<u>Anoka</u>	<u>Totals</u>
FY 2000:							
Revenues:							
Storage Hangars	\$ 232,374	\$ 24,511	\$ 15,245	\$ 30,844	\$ 35,013	\$ 92,770	\$ 430,756
Commercial Hangars	290,437	12,936	26,717	222,547	84,960	88,221	725,818
Fuel Flowage Fees	323,269	1,680	4,080	110,719	21,258	35,328	496,335
Other	<u>19,307</u>	<u>12,054</u>	<u>16,275</u>	<u>8,603</u>	<u>103,365</u>	<u>112,230</u>	<u>271,834</u>
Total Revenues	<u>865,387</u>	<u>51,181</u>	<u>62,317</u>	<u>372,712</u>	<u>244,597</u>	<u>328,549</u>	<u>1,924,743</u>
Expenses: ⁽¹⁾							
Personnel	529,492	140,653	148,621	248,724	282,291	257,657	1,607,438
Utilities/Maintenance	284,239	51,302	23,227	60,257	63,104	107,014	589,143
Other ⁽²⁾	79,805	158,358	8,498	(29,722)	39,602	193,561	450,102
Depreciation	<u>1,225,445</u>	<u>54,537</u>	<u>193,228</u>	<u>224,356</u>	<u>172,925</u>	<u>451,300</u>	<u>2,321,791</u>
Total Expenses	2,118,981	404,850	373,574	194,634	557,922	1,009,532	4,968,474
Less: Depreciation	<u>(1,225,445)</u>	<u>(54,537)</u>	<u>(193,228)</u>	<u>(224,356)</u>	<u>(172,925)</u>	<u>(451,300)</u>	<u>(2,321,791)</u>
Net Operating Expenses	<u>893,536</u>	<u>350,313</u>	<u>180,346</u>	<u>279,259</u>	<u>384,997</u>	<u>558,232</u>	<u>2,646,683</u>
Net Operating Income (Deficit)	\$ (28,149)	\$(299,132)	\$(118,029)	\$ 93,453	\$(140,400)	\$(229,683)	\$ (721,940)
FY 2001:							
Revenues:							
Storage Hangars	\$ 238,447	\$ 37,184	\$ 26,037	\$ 52,234	\$ 49,667	\$ 118,227	\$ 521,796
Commercial Hangars	267,928	13,534	31,203	269,701	106,126	187,533	876,025
Fuel Flowage Fees	285,840	1,850	4,091	129,466	17,158	50,697	489,102
Other	<u>48,474</u>	<u>13,245</u>	<u>18,895</u>	<u>14,323</u>	<u>75,627</u>	<u>173,932</u>	<u>344,496</u>
Total Revenues	<u>840,689</u>	<u>65,813</u>	<u>80,226</u>	<u>465,724</u>	<u>248,578</u>	<u>530,388</u>	<u>2,231,420</u>
Expenses ⁽¹⁾							
Personnel	621,975	126,421	160,269	265,853	292,609	279,431	1,746,558
Utilities/Maintenance	319,593	41,701	39,884	101,373	89,331	131,196	723,078
Other	100,017	220,433	11,332	3,645	33,550	323,427	692,404
Depreciation	<u>1,350,871</u>	<u>77,467</u>	<u>195,393</u>	<u>214,990</u>	<u>259,803</u>	<u>504,025</u>	<u>2,602,549</u>
Total Expenses	2,392,456	466,022	406,878	585,861	675,293	1,238,079	5,764,589
Less: Depreciation:	<u>(1,350,871)</u>	<u>(77,467)</u>	<u>(95,393)</u>	<u>(214,990)</u>	<u>(259,803)</u>	<u>(504,025)</u>	<u>(2,602,549)</u>
Net Operating Expenses	<u>1,041,585</u>	<u>388,555</u>	<u>211,485</u>	<u>370,871</u>	<u>415,490</u>	<u>734,054</u>	<u>3,162,040</u>
Net Operating Income (Deficit)	\$ (200,896)	\$(322,742)	\$(131,259)	\$ 94,853	\$(166,912)	\$(203,666)	\$ (930,620)
FY 2002:							
Revenues:							
Storage Hangars	\$ 326,966	\$ 35,006	\$ 25,182	\$ 55,515	\$ 54,769	\$ 130,082	\$ 627,519
Commercial Hangars	417,813	14,503	29,153	310,668	107,775	121,933	1,001,845
Fuel Flowage Fees	476,607	3,572	4,477	148,857	23,195	57,596	714,304
Other	<u>96,026</u>	<u>10,199</u>	<u>13,996</u>	<u>23,989</u>	<u>36,831</u>	<u>92,109</u>	<u>273,151</u>
Total Revenues	<u>1,317,412</u>	<u>63,280</u>	<u>72,808</u>	<u>539,029</u>	<u>222,570</u>	<u>401,720</u>	<u>2,616,819</u>
Expenses ⁽¹⁾							
Personnel	519,023	143,494	143,186	236,058	278,089	254,192	1,574,042
Utilities/Maintenance	320,760	25,626	30,925	64,479	109,389	112,320	663,499
Other ⁽²⁾	(201,312)	157,819	13,265	(26,201)	10,147	113,152	66,870
Depreciation	<u>1,584,366</u>	<u>82,475</u>	<u>212,167</u>	<u>232,155</u>	<u>259,128</u>	<u>701,787</u>	<u>3,072,078</u>
Total Expenses	2,222,837	409,414	399,543	506,491	656,753	1,181,451	5,376,489
Less: Depreciation	<u>(1,584,366)</u>	<u>(82,475)</u>	<u>(212,167)</u>	<u>(232,155)</u>	<u>(259,128)</u>	<u>(701,787)</u>	<u>(3,072,078)</u>
Net Operating Expenses	<u>638,471</u>	<u>326,939</u>	<u>187,376</u>	<u>274,336</u>	<u>397,625</u>	<u>479,664</u>	<u>2,304,411</u>
Net Operating Income (Deficit)	\$ 678,941	\$(263,659)	\$(114,568)	\$ 264,693	\$(175,055)	\$ (77,944)	\$ 312,408

Note 1: Expenses exclude MAC costs for administration of reliever airports totaling \$897,620, \$912,974 and \$884,895 for fiscal years 2000, 2001 and 2002, respectively.

Note 2: Negative other expenses resulted from various cost reimbursements, predominately from Minnesota Department of Transportation. The St. Paul airport also received federal FEMA money for flood assistance.

Source: Reliever Airport financial information provided by MAC for Fiscal Years 2000, 2001, and 2002.

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MAC set the ground lease rates and fees charged to tenants with the goal of recovering the operating and maintenance expenses, less depreciation, incurred by the reliever airports. The commission has come under pressure because the current rates do not recover all of the reliever airport's operating costs. Critics claim that rates and charges assessed to reliever airport tenants are too low.

The commission receives revenue at the reliever airports from a variety of sources, including ground rental, fuel flowage fees, and a percentage of commercial hangar revenues. Ground rent is a rate charged per square foot of leased area. Fuel flowage fees are fees paid by tenants that have the authority to dispense fuel and are paid at a specific rate per gallon. Commercial hangar revenues also include a percentage of gross sales. All of these rates are published in the commission's rent and fee schedule.

In 1998, the commission arranged for a market and financial analysis on the six reliever airports by an outside contractor. The purpose for the study was to provide recommendations regarding the rate policies and structure that would permit the reliever system to become more financially self-sustaining and minimize the level of subsidy needed. In September 1998, the commission approved a new rate structure effective January 1, 1999. New rates are being implemented in increments over a seven-year period after which they were to be adjusted annually by the Consumer Price Index. The commission is currently undergoing another review of its current reliever airport rate structure.

The goal of recovering all operating costs, less depreciation, has not been achieved due to several events that were out of the commission's control. The most significant of these events was September 11, 2001, which resulted in the closure of all airports for an extended timeframe and added extra security demands. Another event was the closure of the St. Paul Airport during the flooding in the spring/summer of 2001. Still another impediment was the commission's plan for expansion at several reliever airports creating additional hangar areas, which would have generated additional revenue. However, the commission has not completed the expansion due to budget constraints. In the meantime, most of the reliever airports have waiting lists for ground leases.

The following MAC policies, rules, and regulations are based on the Airport Compliance Requirements of the Federal Aviation Administration and govern reliever airport leasing and use:

- *Lease Policies, Rules and Regulations of the Metropolitan Airports Commission Reliever Airports*
- *Ordinance No. 78 Minimum Standards for Reliever Airports*
- *Ordinance No. 87 Rates and Charges for Reliever Airports*
- *Reliever Airport Operations Manual*

Objective and Methodology

Our objective in conducting this special review was to answer the following questions:

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- Did the Metropolitan Airports Commission have an adequate process for awarding and monitoring lease agreements and monitoring hangar usage at the reliever airports?
- Were aircraft hangars at the reliever airports used in accordance with MAC policies, rules and regulations, and lease agreements?

In conducting this review, we interviewed commission staff and examined lease policies, rules, and regulations for the reliever airports. We reviewed the process for hangar waiting lists and examined procedures for negotiating storage and commercial hangar leases. We also performed site inspections of 54 storage and commercial hangars at the six reliever airports. Individual hangars were inspected to obtain assurance that the space was being used in accordance with MAC's reliever airport policies and the terms of individual lease agreements. Chapter 2 discusses the results of our review.

Chapter 2. Reliever Airport Ground Leasing & Hangar Inspections

Chapter Conclusions

The Metropolitan Airports Commission properly awarded ground space leases for reliever airport hangars. There was no evidence of any conflict of interest by MAC commissioners or improper management by staff. A commissioner who provided legal assistance to a tenant involved in a lease transfer properly abstained from voting on commission decisions on the lease. However, a separate lease in question was not timely executed prior to the start of construction by the hangar contractor. The subsequent lease transfer was also untimely and gave the appearance that MAC circumvented its waiting list. The executed lease was eventually obtained from the tenant and, pursuant to commission rules, the lease transfer allowed the tenant to transfer their hangar to another party regardless of the waiting list.

Overall, for 54 hangars inspected, we found that aircraft storage and commercial hangars at the reliever airports were being used appropriately according to MAC policies, regulations, and lease terms. At five hangars inspected, we observed the storage of cars, boats, and other items that either were close to or exceeded the 25 percent non-aviation storage limit. In another instance, a former MAC commissioner performed limited commercial activities under an aircraft storage lease and did not pay MAC a percentage of revenues typically called for in commercial leases. We also noted that MAC had not implemented routine inspections for determining appropriate hangar use, nor did it have a system to track and monitor these inspections. Routine inspections that were performed were focused on environmental issues. We feel that hangar use inspections, perhaps in conjunction with the environmental inspections, would be an effective deterrent against excessive non-aviation storage and commercial activities in aircraft storage hangars.

Aircraft Ground Leases

The Metropolitan Airports Commission currently has approximately 850 aircraft storage, commercial operation, and land leases at its reliever airports. Each lease type has its own rules, regulations, and standards. Hangars are built, at the owners cost, on the leased land.

Ground leases for aircraft storage allow tenants to construct and maintain a hangar and related improvements for storing and maintaining their own aircraft. The tenant pays rent at the rate published by the commission. If the tenant has the authority to dispense fuel, the tenant also

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pays the fuel flowage fee. The term for this type of lease is ten years. A tenant is allowed to sublease part of their hangar space to another aircraft owner for storage.

Under a commercial lease, the tenant can only use the space for specific aviation-related business activities outlined in the lease. Some of these uses include sale of aircraft, aircraft parts, and accessories; flight and ground instruction; flying for charter or hire; and storage, repair, rental, fueling, or lubrication of aircraft. A commercial tenant pays a combination of several rents and fees to MAC, including ground rent and a percentage of sales. If the tenant is authorized to dispense fuel, they also are subject to the fuel flowage fee. If the tenant is granted a license to conduct a non-aviation complementary business, the tenant pays a monthly license fee. Examples of non-aviation complementary services include aviation insurance and legal services, auto rental, restaurants, and aviation museums. The term of this lease type is 15 years.

There are specific procedures that individuals must follow to obtain a lease for a vacant hangar site, to develop facilities under a commercial lease, or to lease additional space. These procedures are outlined in the commission's *Lease Policies, Rules and Regulations of the MAC Reliever Airports*. The commission has a lease committee that includes the reliever airport director and managers, as well as various staff from the environmental, legal, airport development, and finance departments. The committee reviews all written requests for hangar space and submits its recommendations for lease approval to the full commission. The commission members vote on the lease committee's recommendations.

For an aircraft storage lease, an individual must submit a written request to the lease committee. The individual must own a registered airplane and have specific plans to construct a hangar on that leased space. For those who currently own a hangar and request additional space, the tenant must show justification for the request for additional space. For a commercial lease, MAC requires specific information from the potential tenant, including their proposed operation, financial stability of the company, and background qualifications of the applicant and potential employees. If there is not ground space available at the time of the request, commission staff maintain a waiting list on a first come, first serve basis. Once space becomes available, MAC staff notify the individuals in the waiting list sequence to determine if the individual is still interested in the space.

Most reliever airports have lengthy waiting lists and, in fact, one individual has been on a waiting list since 1992. The commission had originally planned expansion of new areas for hangar construction, however, this has not happened due to budget constraints. We obtained the waiting lists as of February 11, 2003, for all of the reliever airports and noted that there are 150 individuals on the Airlake Airport waiting list, 103 individuals on the waiting list for Flying Cloud Airport, 70 individuals on the waiting list for the Lake Elmo Airport, and 46 individuals on the waiting list for the Anoka County-Blaine Airport.

A lease transfer or sublease provide mechanisms for someone to acquire an existing hangar or space from another party and avoid the waiting list. The waiting list is only for those who want a ground lease to construct a new hangar. A current tenant can sell an existing hangar and transfer the lease to another individual. The request for the lease transfer must be submitted to the lease

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committee for its review and submitted to the commission for approval. The new tenant must have an aircraft and be in compliance with the terms of any lease they currently have to be acceptable to the commission. Lease transfers do not impact the individuals on the waiting list unless they request to be removed.

Current tenants with aircraft storage leases can also sublease some of their hangar space, without prior approval of the commission. The tenant, however, must provide certain emergency information including the subtenant's name and address, as well as the aircraft make, model, and registration number. Subleases do not impact the individual's status on the waiting list. For commercial operation subleases, however, commission approval must be obtained prior to entering into the sublease.

Two specific concerns were raised about reliever airport awarding of hangar leases. One alleged a conflict of interest regarding a MAC commissioner's involvement in a transfer of hangar ownership, and the other involved the awarding of ground storage leases to those not on the reliever airport waiting lists.

Allegation: The complainant raised concern about a potential conflict of interest regarding the involvement of a commissioner in a lease transfer.

A potential conflict of interest was alleged due to a commissioner's apparent involvement in a lease transfer. The MAC commissioner, in this case, is an attorney by profession. The attorney's client is a current tenant who was considering acquiring another tenant's hangar. The attorney's working relationship with the party involved in the lease transfer was established before his tenure as commissioner. The complainant alleged that the commissioner unduly used his influence to facilitate the lease transfer transaction. However, we found that this commissioner did not expedite or facilitate the transaction in any way other than to advise his client as to the commission's policies and procedures for lease transfers. The commissioner properly abstained from voting on this lease transfer when it came before the full commission for approval. We reviewed MAC's conflict of interest policy, applied this situation, and were unable to substantiate that a conflict of interest issue existed. During the course of our review, we did not become aware of any other instances where there appeared to be a conflict of interest involving any commission member or employee.

Allegation: Concerns were raised about the inappropriate awarding of a ground storage lease to a party that was not on the waiting list. The complainant thought that he had lost rank or was not given fair priority while waiting for a ground storage lease vacancy at the Anoka Airport.

We obtained and reviewed the waiting list for the Anoka County-Blaine Airport at three different points in time due to concerns raised about the use of the waiting lists. We analyzed the lists to determine the progression of individuals on the waiting list. Specifically, we reviewed the complainant's rank on the waiting list to determine if he was not given proper priority or fair consideration. We found no evidence that any party inappropriately gained or lost ranking on the

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waiting lists. However, the allegation appears to have resulted from another tenant's ability to obtain a hangar site despite not being on the waiting list, as discussed in Finding 1.

Finding 1. Reliever airport staff did not execute one aircraft storage lease and its subsequent lease transfer in a timely manner.

One of the 54 leases we reviewed was not handled timely. MAC did not obtain an executed ground lease at the Anoka County-Blaine Airport until over a year after its effective date and after hangar construction was nearly completed. The tenant subsequently transferred the lease to another party. However, the lease transfer document also was not executed in a timely manner. The delayed execution of the original lease and lease transfer gave the appearance that MAC was circumventing existing policies and not granting proper priority to those on the waiting list. MAC allowed the contractor to begin construction before the lease was executed. Allowing work to proceed without the authorized lease exposed the commission to potential unnecessary risks or litigation.

Circumstances surrounding the aircraft storage lease in question created the impression that the lease was obtained by circumventing the waiting list. Anoka County-Blaine Airport's waiting list first began in September 1999. Based on a review of lease files, we developed the following chronology:

<u>Date</u>	<u>Action</u>
3/23/1999	Original request made by Party #1 for new aircraft storage ground lease.
4/14/1999	Commission approval granted for new lease.
6/07/1999	Lease documents sent for tenant signature (effective 5/1/99, due in 2 weeks).
9/13/1999	Anoka County-Blaine Airport waiting list began.
12/22/1999	Letter sent to Party #1 indicating approval of building plans.
2/17/2000	Reliever manager determines hangar construction is three-fourths complete.
2/18/2000	MAC staff discover there is no signed lease agreement and that Party #1 is no longer interested. MAC staff contact the contractor and inquire who the hangar is being built for.
2/25/2000	Contractor informed by MAC staff that any new party must get on the waiting list.
2/28/2000	Party #2 makes a request for Party #1's ground lease by sending a letter to MAC indicating materials have been invested and he would like to take over the lease. (A lease was not granted by MAC based on this request.)
3/29/2000	Ground lease signed by Party #1 (authorized by MAC on 4/6/2000).
7/20/2000	Notice of default sent to tenant for unpaid rents.
9/03/2000	Request for lease transfer made by Party #1 to Party #2.
10/16/2000	Lease transfer approved by the Commission.
10/19/2000	Lease transfer documents sent for Party #1's signature (effective 11/1/2000).
12/13/2001	Lease transfer documents sent again for Party #1's signature (due in 2 weeks).
7/22/2002	Lease transfer documents sent again for Party #1's signature (due in 1 month to avoid the lease transfer from being rescinded).
8/19/2002	Lease transfer documents authorized by Party #1
8/26/2002	MAC assignment and transfer of lease from Party #1 to Party #2.

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The untimely handling of the lease and lease transfer put MAC in a precarious situation when it allowed the contractor to complete the work even though a lease had not yet been executed. The lease was effective on May 1, 1999, prior to the beginning of the Anoka County-Blaine Airport's waiting list, but not fully executed until nearly a year later. During this timeframe, the hangar was constructed. Internal records revealed that staff questioned whether Party #1 wanted the lease, and that Party #2 actually funded the construction of the hangar. Rather than rescinding the unexecuted lease and going to the waiting list, MAC waited until Party #1 provided the signed lease. Ultimately, after another extensive delay, Party #2 was able to obtain the lease via a lease transfer from Party #1 despite not being on the waiting list. This appeared inequitable to those on the waiting list. However, as discussed earlier, MAC policies allow lease transfers as an appropriate mechanism to obtain a lease without using the waiting list. MAC must ensure the leases are executed in a reasonable timeframe in order to be fair to those on the waiting list and certainly not allow construction to begin until after the lease agreement is executed.

Since this incident, the commission has implemented a tracking system to monitor unsigned lease documents and to ensure that all lease agreements are returned and the necessary approvals obtained.

Recommendation

- *The commission should ensure that original lease agreements and lease transfers are fully executed within a reasonable timeframe. Its new tracking system will help staff identify unsigned or unreturned documents. Hangar construction should not proceed until the lease agreement is executed.*

Hangar Use and Inspections

Certain operating matters regarding use of hangars are not specified in the reliever airports policy or tenant leases, but instead are covered in the individual Reliever Airports Operations Manual. Section 4.2b(9) of the Operations Manual provides the following requirements regarding hangar storage:

- Hangars will be primarily used for aircraft and aircraft parts storage only. No more than 25 percent of a hangar may be utilized for the storage of non-aviation material.
- Snowmobile, motorcycle, and automotive repair is prohibited in hangars.
- Hangars will not be utilized for living accommodations.
- Dumping of oil, gasoline, and other contaminants is prohibited. No storage of gasoline in hangars is allowed.

The commission updated its inspection procedures for the reliever airports in 2000. At that time, tenants had raised constitutional concerns regarding unrestricted access to their privately owned hangars. Legal representatives of both parties (the tenants and the commission) negotiated an inspection policy that requires MAC to provide a 72-hour advanced written notice

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of its intent to conduct a compliance inspection. An addendum to the reliever airports policy specified three different categories of inspections:

- **Routine Inspections:**
Performed once every three years for commercial leases, or once every five years for storage leases. A routine inspection could occur anytime in conjunction with lease transfer, lease renewal, or other lease request.
- **Compliance Inspections:**
Performed whenever there exists a reasonable basis to believe that premises are not being kept, maintained, or used according to law or lease terms.
- **Demand Inspections:**
Performed if a commission representative believes that a tenant is not using, keeping, or maintaining the premises, has been subject of concern in a previous compliance inspection, or doesn't allow access for a routine or compliance inspection.

Allegation: Various complainants raised concerns about inappropriate use of aircraft storage hangars for non-aviation storage, personal living quarters, or business activities not designated for commercial use.

As part of our site visits to inspect hangars for compliance with established MAC policies and lease agreements, we arranged access to 54 storage and commercial hangars. We selected hangars to inspect based, in part, on complainants' concerns. We also considered those hangars previously cited by reliever managers as being in violation of MAC policies. We were able to gain prompt access to the majority of hangars simply by verbal request to the tenant. In four instances, the 72-hour written notification was necessary because the tenant could not be reached by telephone or was out of town. Our inspection looked for evidence of living quarters, non-aviation related items, and any indication of business activity being conducted in aircraft storage hangars.

The results of our inspections revealed that 38 of the 54 hangars inspected had non-aviation materials stored in them, but they did not exceed the 25 percent limit specified in the Reliever Airports Operations Manual. However, as discussed in Finding 2, five tenants had non-aviation items that were close to or exceeded the 25 percent limit.

We saw no indication of hangars being used as living quarters for tenants. Some tenants had fixed up areas inside their hangars for short-term accommodations. A media article reported that one tenant's hangar contained a loft with a full kitchen, bath and a bed. Following the article, MAC told the tenant not to reside there overnight and ordered removal of the bed. We saw no bed in the loft, and the tenant told us they rarely stayed there overnight.

One tenant that received written notification of inspection only allowed the Office of the Legislative Auditor access to one of its hangars since only that hangar had been cited for a previous problem. However, this tenant denied us access to four other hangars. The tenant

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contended that there was nothing to indicate a reasonable basis to believe that the premises were not being used appropriately. Their argument was consistent with MAC's inspection policy requirements and, therefore, we did not pursue gaining access to these hangars. In addition, MAC had conducted a compliance inspection of these hangars within the past year and had not identified problems. We think that routine inspections may deter inappropriate activity and suggested that MAC add or coordinate hangar use inspections as allowed under its inspection policy, as discussed in Finding 3.

Finally, as discussed in Finding 4, we noted one instance where there appeared to be commercial activities occurring in an aircraft storage hangar.

Finding 2. Five of 54 tenants we inspected stored non-aviation items that cumulatively were close to or exceeded the 25 percent limit set by MAC.

Five reliever airport tenants potentially did not comply with the non-aviation storage limitations set by MAC. The commission allows 25 percent of hangar space to be used for storage of non-aviation related material, as outlined in its Reliever Airports Operations Manual. Of the 54 hangars we inspected, five of the hangar owners had storage of non-aviation related items, including cars, boats, and antiques that were close to or exceeded the 25 percent restriction allowed by the commission. In one instance, the hangar owner voluntarily removed the items immediately after our inspection. In the other instances, the appropriate reliever manager was working with the noncompliant hangar owners to ensure items were removed.

Currently, the non-aviation storage limitation is not incorporated into MAC's Lease Policies, the Rules and Regulations of the MAC Reliever Airports, or the tenants' lease agreements. The 25 percent limit is specified in Section 4.2b(9) of the Reliever Airports Operations Manual. Commission staff indicated that they inform all leaseholders of the non-aviation storage restriction at the beginning of their lease. However, we feel that this key restriction should be elevated into MAC's formal administrative policy governing reliever airports.

Recommendations

- *The Metropolitan Airports Commission should ensure that five tenants found in noncompliance adhere to the commission's guidelines regarding the 25 percent limit for storage of non-aviation items.*
- *The commission should add language to its reliever airports policy specifying any limitation on storage of non-aviation items.*

Finding 3. The commission has not implemented hangar use inspections as part of the routine inspections outlined in policy.

MAC performed routine hangar inspections for environmental issues, but has not established a schedule to monitor and document inspections focused on hangar use. The inspections that were

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completed and documented in the lease files were the result of complaints by other tenants, or visual observations by the Environmental Compliance Specialist while conducting environmental inspections, and not the result of scheduled routine inspections focused on hangar use. Coordination of hangar use inspections with the environmental inspections already performed may be the most effective method for implementing the policy.

In October 2000, the commission adopted inspection procedures as part of its Lease Policies, Rules and Regulations of the MAC Reliever Airports. According to the inspection policy, routine inspections are to be completed once every five years for storage leases, every three years for commercial leases, and in conjunction with a lease transfer or renewal. We found that MAC did not have a process for monitoring and documenting routine inspections that focused on hangar use. The threat of routine inspections would be an effective deterrent against excessive storage of non-aviation items, as discussed in Finding 2, and unauthorized commercial activities, as discussed in Finding 4.

We found that the reliever airport managers took appropriate enforcement actions when possible tenant hangar misuse or other concerns came to their attention. Compliance inspections were done when it appeared that the tenant was not using the leased space appropriately, or there was some evidence of policy or lease term violations. Demand inspections were done immediately if a concern had been the subject of a prior compliance inspection, or if access for compliance inspections was denied.

Recommendation

- *The commission should institute a formal schedule for completing routine inspections focused on hangar use, in addition to or in coordination with environmental inspections, and ensure all hangars are inspected within the timeframes outlined in the policy. The commission should develop a system to track and document these inspections.*

Finding 4. One tenant, a former MAC commissioner, performed commercial activities in his hangar in violation of MAC lease policies, procedures, and lease terms.

A former commissioner did not comply with MAC policies and the terms of his aircraft storage lease agreement by conducting some commercial activities on the property at the Anoka County-Blaine Airport. According to MAC policy Section VI and the terms contained in each aircraft storage lease, “*the tenant or subtenant may perform maintenance on their own aircraft, but not for hire.*” We observed the commissioner performing work on another tenant’s aircraft, and he indicated he had contracted to provide repair services for the company. As a result of the inspection, the reliever airport manager sent an enforcement letter to the tenant requiring that any business activities be stopped.

In addition to repair services, the former commissioner, as a hobby, rebuilds foreign aircraft that could then be sold for profit. MAC policies are not clear on whether hobby income, which

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produces personal ancillary profit for the hangar owner, would be considered a commercial activity.

Hangar owners are not allowed to conduct commercial activities in aircraft storage hangars. These types of activities only are allowed in areas designated for commercial use. Under a commercial lease, a certain percentage of the revenues generated are to be paid to the commission along with the ground rental fee. MAC has not received a percentage of revenue from these commercial activities.

Recommendations

- *The Metropolitan Airports Commission should work with this tenant to develop an appropriate lease agreement.*
- *MAC should clarify whether hobby income generated in aircraft storage hangars is considered a commercial activity.*

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METROPOLITAN AIRPORTS COMMISSION

Minneapolis-Saint Paul International Airport

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September 26, 2003

Mr. James Nobles
Legislative Auditor
Office of Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul, MN 55155-5353

Dear Mr. Nobles:

Thank you for the opportunity to respond to the findings of Special Review of Metropolitan Airports Commission Hangar Leasing and Use. It has been a pleasure to work with your staff during the last several months as this audit was conducted.

We are pleased that the Legislative Auditor has recognized the following:

- The Metropolitan Airports Commission (MAC) properly awarded ground space leases for reliever airport hangars;
- Aircraft storage leases were properly offered to those on the waiting list; and
- The MAC reliever staff adequately enforced compliance with MAC requirements when issues and concerns came to their attention.

In response to the four findings in the report, I would like to provide the following comments.

Finding 1: Reliever airport staff did not execute one aircraft storage lease and its subsequent lease transfer in a timely manner.

Audit Recommendation: The Commission should ensure that original lease agreements and lease transfers are fully executed within a reasonable timeframe. Its new tracking system will help staff identify unsigned or unreturned documents. Hangar construction should not proceed until the lease agreement is executed.

MAC staff concur with the recommendation that original lease agreements and lease transfers be fully executed within a reasonable timeframe and that hangar construction should not proceed until the lease agreement is executed. A tracking system to address this issue was implemented immediately following the discovery by MAC staff of this situation. This electronic tracking system allows staff to monitor all lease transactions that are in process.

Finding 2. Five of 54 tenants we [OLA] inspected stored non-aviation items that cumulatively were close to or exceeded the 25 percent limit set by MAC.

Audit Recommendation: The Metropolitan Airports Commission should ensure that five tenants found in noncompliance adhere to the Commission's guideline regarding the 25 percent limit for storage of non-aviation items. The Commission should add language to its reliever airports policy specifying any limitation on storage of non-aviation items.

Of the five tenants found in noncompliance, three have been reinspected by MAC staff and found to be in compliance. The two remaining tenants have been sent letters requesting a compliance inspection. MAC staff will take the necessary steps to ensure that these hangars meet the guidelines.

The limitation on non-aviation use is presently outlined in the airport operations manual, which serves as a guideline for the airport managers on operational issues. The application of the guideline was not intended to interfere with the aviation use of the hangar and in no circumstance was to exceed 25% of the total available floor-space of the hangar. Reliever Airport staff will immediately review and clarify its approach to non-aviation storage. If necessary, any modifications to the operations manual will be made and changes to the reliever airports policy will be requested from the Commission.

Finding 3. The Commission has not implemented hangar use inspections as part of the routine inspections outlined in policy.

Audit Recommendation: The Commission should institute a formal schedule for completing routine inspections focused on hangar use, in addition or in conjunction with environmental inspections, and ensure all hangars are inspected within the timeframes outlined in the policy. The Commission should develop a system to track and document these inspections.

We concur with the recommendation to formalize a schedule to complete routine inspections focused on hangar use. The Reliever Airport staff will implement a schedule for routine inspections for hangar use, and, when feasible, combine them with the inspections conducted under MAC's Environmental Compliance Program.

These inspections will be conducted consistent with the timelines outlined in the Inspection Procedure. The inspection timelines will be tracked electronically and the inspection documentation will be filed in the tenant's lease file. At the conclusion of each

inspection, the respective tenant would be provided a copy from a multi-copy form outlining the inspection findings and required follow-up actions.

Finding 4. One tenant, a former MAC commissioner, performed commercial activities in his hangar in violation of MAC lease policies, procedures, and lease terms.

Audit Recommendation: The Metropolitan Airports Commission should work with this tenant to develop an appropriate lease agreement. MAC should clarify whether hobby income generated in aircraft storage hangars is considered a commercial activity.

MAC staff has discussed the activities conducted within the hangar with the owner. The owner has applied for, and the Commission has approved a limited commercial lease for aircraft maintenance.

Many reliever airport tenants are engaged in aviation activities which one may consider a hobby. The prime example is one who builds an airplane from a kit then sells it for a nominal profit upon completion. We have not observed anyone conducting this activity on a full time basis, nor have we observed anyone selling more than one kit plane in a year. Under these or similar circumstances, we would consider the activity a hobby and not require a commercial lease. In another circumstance aircraft were purchased from a foreign country and were shipped to Minnesota in crates. In this circumstance the demand for these aircraft exceeded expectations, the work grew from part time to full time, and multiple aircraft were then advertised for sale to the general public. Under these or similar circumstances (full time activity or advertised to the public), we would consider the activity to be a commercial operation, and it must be conducted from a commercial leasehold and be subject to MAC's commercial fees.

Overall the instances where aviation hobbies approach the activity or profit levels to be viewed as a commercial activity are very rare. For that reason, we feel it is reasonable to review these activities on a 'case by case' basis.

We appreciate the opportunity to respond to your report. If you have any questions, please contact me at 612-726-8188.

Sincerely,

/s/ Jeffrey W. Hamiel

Jeffrey W. Hamiel
Executive Director