

October 14, 2024

Attention: FAA Part 16 Airport proceedings Docket

AGC-610

Federal Aviation Administration

800 Independence Ave., SW

Washington DC 20591

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PART 16 DOCKETS

Part 16 Formal Complaint:

Los Angeles County Aeronautic Hangar Tenants James Marc Haney & Bruce Busch v. Los Angeles County (LAC)

I. Introduction

Los Angeles County (LAC) currently sponsors five federally funded general aviation airports: San Gabriel Valley Airport, Brackett Airport, Compton Airport, Whiteman Airport and William J. Fox Airfield. At those five airports, LAC manages 1,089 general aviation hangars: 825 are used for aeronautical purposes, 137 hangars are used for public storage, and 127 hangars are empty. (See Table 3, below, Los Angeles County Airports Inventory of County Owned Hangars, May 30, 2024). Thus, 24% of general aviation hangars managed by LAC are without aviation demand or use. This high hangar vacancy rate and non-aeronautical use of hangars is unique to the LAC airport sponsor and not mirrored at other comparable and competitive Southern California airports not managed by LAC.

The relatively high rate of vacancies and non-aviation tenancies is attributable to: (1) aviation rental rates above market competitive aviation hangar rates, and (2) non-aviation rental rates below FMV. By maintaining this rental rate structure, LAC is in violation of FAA Grant Assurance Rules. Airport Improvement Program Grant Assurances for Airport Sponsors, May 2022 (Grant Assurances),¹ 14 CFR Chapter 1 Policy on the Non-Aeronautical Use of Airport Hangars 81 Fed. Reg. 38,911 (June 15, 2016) (14 CFR, section VI. Sponsor Compliance Actions, section d.),² 49 U.S.C. § 47101(a)(14) and 49 U.S.C. § 47107(b)(1).

In 2014, LAC's third-party management company at the time, American Airports Corporation (AAC) began charging rental rates for aviation hangars above rates at comparable and competitive airports in the region. The rental rates were not based solely on cost recovery—

¹ See Exh. 1, Airport Improvement Program Grant Assurances for Airport Sponsors, May 2022: https://www.faa.gov/sites/faa.gov/files/airports/new_england/airport_compliance/assurances-airport-sponsors-2022-05.pdf

² See Exh. 2, available at <https://www.federalregister.gov/documents/2016/06/15/2016-14133/policy-on-the-non-aeronautical-use-of-airport-hangars#page-38911>.

AAC set uniform rates across four of the five airports in the LA basin, arbitrarily fixing rental rates without regard to the specific costs to maintain each individual airport. The fifth airport, William J. Fox Field in Lancaster—geographically distinct from the remaining four airports in the LA basin—had and maintains aeronautical rental rates 30% lower than the remaining airports and a 100% aviation occupancy, with zero rented for non-aviation use, and only four hangars available to be rented for aviation use.³ (See Table 3, below.) Fox Field illustrates the problem: competitive marketplace aviation rental rates attracted more aviation use, resulting in fewer vacancies for non-aviation use, and therefore was less lucrative for AAC. In fact, the waitlists for non-aviation use hangars under AAC's management were long, because non-aviation rental rates were *below* FMV.

In 2021, the FAA determined that AAC's contract with LAC as manager of the airports would not be renewed. Since then, LAC has taken over management of the airports. Under pressure from the FAA and airport users, LAC commissioned two rent rate studies in 2022 that were reported in 2024, one for aeronautical use and one for non-aeronautical use. Both rent studies were conducted by Aviation Management Consulting Group (AMCG).

The non-aeronautical rent study suffers several flaws that has resulted in establishing rates that are still below FMV—even though rates would increase to some degree. For example, and as discussed more fully below, the non-aeronautical rent study relies on flawed methodology, discussed in detail below, that does not comport with the FAA Compliance Guidance Letter 2018-3,⁴ which the appraiser, AMCG, purports to follow.⁵ In addition, the non-aeronautical rent study is not peer-reviewed, and LAC has not undertaken a second independent appraisal or retained a review appraiser, as required by the 2018 FAA Compliance Letter for properties valued in excess of \$1 million. (See FAA Compliance Guidance Letter 2018-3 at pp. 13–15.)

LAC was notified and has known since at least 2019 that non-aeronautical rents were under FMV and in violation of FAA requirements, yet it has continued to charge below-market rents for the past five years. This needs to be corrected, both because it violates the FAA's self-sustainability requirements and because charging true FMV rents for non-aeronautical use will create an increase in revenue that should and must be used to offset the operating costs of LAC airports, and in turn result in adjusting aeronautical rental rates downward to be competitive and

³ Similarly, comparable and competitive airports in the Southern California region in proximity to LA County airports like KEMT have no non-aviation use at all and have wait lists to rent hangars for aviation use. A few examples include Chino, Riverside, Camarillo, Oxnard, Cable, and Flabob.

⁴ See Exh. 3, FAA Compliance Guidance Letter 2018-3, available at: https://www.faa.gov/sites/faa.gov/files/airports/airport_compliance/compliance_guidance/CGL-2018-3-Appraisal-Standards.pdf

⁵ See Exh. 4, July 30, 2024 AMCG Non-Aeronautical Rent Study at p. 2 [“[T]he execution of the assignment is intended to comply with the supplemental standards enacted by the [FAA], specifically instructions pertinent to FMV analyses as described in the Compliance Guide Letter 2018-3.”], available at: <https://pw.lacounty.gov/avi/airports/documents/Rent%20Study/Non-Aeronautical%20Airport%20RentStudy%20Update-LA%20County%20Airports-073124.pdf>

attractive in the current aviation marketplace. By this Part 16 Complaint, LAC airport tenants request that the FAA oversee and require LAC to conduct the appropriate appraisals—employing accepted and standardized methodologies—to calculate the actual FMV of non-aeronautical rent rates.

II. Standing

LAC Airport users James Marc Haney and Bruce Busch have standing to make this Part 16 complaint because they are directly affected by the policies and procedures of the LAC Department of Public Works Aviation Division management, that result in aeronautic hangar tenants being charged higher than market competitive hangar rent rates in a county wide hangar inventory system that is burdened with a 24% aeronautic hangar vacancy rate. Second, airport users, including James Marc Haney and Bruce Busch, are subject to increased automobile traffic on the airfield due to the high non-aviation hangar use activity. This Part 16 Complaint is supported by 43 current LAC KEMT aviation hangar tenants (see Exh. 5, petition of LAC Aeronautical Tenants in support of the Part 16 Complaint, with signatures).

III. History of LAC Airport Users' Efforts to Resolve Rent Issues with Sponsor LAC

In 2016, the Los Angeles County Airport Commission adopted a lease policy that allowed month-to-month leases of vacant hangars at LAC airports for any purpose until a request to lease the hangar for aeronautical use was received. At the time, American Airports Corporation (AAC) managed and operated the LAC airports on behalf of LAC. AAC's policy favored non-aviation tenants over aviation tenants, as set forth in the Part 13 Complaint, because they generated more income per hangar unit.

In 2019, troubled by AAC's policy favoring non-aviation tenants and the low rate of aviation occupancy at LAC airports, LAC airport tenants approached the LAC Aviation Commission, LAC Department of Public Works Aviation Division, and LAC Board of Supervisors numerous times to seek to adjust rental rates for aviation hangars to be competitive and attractive in the marketplace. By August 2019, LAC had not responded to resolve the airport tenants' concerns about rental rates, and airport users filed a Part 13 Complaint. In support of that complaint, in April 2020, airport users provided the FAA with LAC Public Works's Month-to-Month Leasing General Plan/Policy Regarding the Use of Aircraft Storage Hangars for Non-Aeronautical Purposes (updated August 2019) and AAC's Guidelines for Identifying Non-Aeronautical Use of Hangars (updated April 2019).

In 2021, the FAA disallowed the renewal of the contract between LAC and AAC for the management and operation of LAC airports due to violations of the FAA Airport Compliance Manual section 6.6.f. and 8.9.a. LAC then transitioned to direct management of the airports on August 1, 2021.

Under increasing FAA scrutiny due to the Part 13 Complaint and mounting pressure from airport users, LAC commissioned two hangar rent studies by Aviation Management Consulting Group (AMCG); one for aeronautical hangar use and one for non-aeronautical hangar use. The reports were scheduled to be completed in February 2023, but the results were not finalized until February 8, 2024, and not made public until April 2024. The non-aeronautical rent study was further revised in July 2024. In the meantime, in March 2024, the FAA Western Regional Compliance Office issued its close-out letter of the 2019 Part 13 Complaint, finding in LAC's

favor. The publication of the AMCG studies—withheld by LAC from the public for over a year and released just weeks after issuance of the FAA’s close-out letter—confirm the allegations in the 2019 Part 13 Complaint.

On June 20, 2024, an LAC airport user confirmed with LAC Assistant Deputy Director of the Aviation Division Paul Maselbas that LAC “plan[s] to use the AMCG study to support non-aviation hangar rent increases.”⁶ In August 2024, the LAC Board of Supervisors approved the rent increase for non-aviation hangars, informed by the results of the AMCG non-aeronautical rent study, but is allowing only incremental rent increases of 20% at a time over an unspecified period to bring current non-aviation rental rates up to the new, AMCG-discounted rates as set forth in the rent study. In other words, non-aviation rental rates will continue to be far below FMV at LAC airports for the foreseeable future.

However, LAC’s rent adjustment for non-aeronautical hangars is not sufficient and is still below FMV—and thus is still in violation of FAA regulations. As set forth in more detail below, AMCG’s non-aeronautical rent study employed a flawed methodology, based on an expired appraisal, using inadequate comps and further recommends an additional 45% discount, without any evidence to support that reduction. In fact, the out-of-state appraiser never even visited the property, a fundamental aspect of any appraisal that vitiates AMCG’s conclusions. The results of the AMCG studies necessitate this Part 16 Complaint: that LAC continues to undercharge FMV for non-aeronautical rents and charge above market competitive rates for aeronautical use.

IV. Allegations against FAA Sponsor Los Angeles County, as the sponsor of Los Angeles County Airports

Pursuant to Title 14 of Code of Federal Regulations, Part 16, the aviation tenants of LAC Airports allege that LAC:

1. Is in violation of FAA Grant Assurances that require the sponsor to receive at least FMV rent for a hangar that is being used for non-aeronautical purposes.
2. Is not complying with FAA standards and guidelines concerning rent appraisal methods as prescribed in 81 Fed. Reg. 38,911 (June 15, 2016) (14 CFR, section VI. Sponsor Compliance Actions, section d.)⁷
3. Fails to offer its airports to the public as airports on a fair and reasonable basis by charging above market competitive rents while maintaining a 24% aviation hangar vacancy rate.

V. Claims

⁶ See Exh. 6, June 20, 2024 Email from Paul Maselbas to James Marc Haney, attached as an exhibit to this complaint.

⁷ See Exh. 2, available at <https://www.federalregister.gov/documents/2016/06/15/2016-14133/policy-on-the-non-aeronautical-use-of-airport-hangars#page-38911>.

Claim 1, Violation of 81 Fed. Reg. 38,911 (June 15, 2016) (14 CFR, section VI. Sponsor Compliance Actions, section d.).⁸ LAC charges below FMV rents for hangars used for non-aeronautical purposes (i.e., public storage), in violation of federal regulations. Table 1 demonstrates that LAC is charging rents that are below FMV for hangars used for non-aeronautical purposes (i.e. public storage).

Table 1 : 2024 AMCG Non-Aeronautical Rent Study (data derived from Study table 45)

KEMT Hangar Type	Aviation Rate	Non-Aviation Rate Pre-August 2024	AMCG-Determined Comparable FMV Rate	AMCG Discounted Rate Adopted by LAC
Executive (1,512 ft ²)	\$695 / mo.	\$1,320 / mo.	\$3,781 / mo.	\$2,800 / mo.
B Row (856 ft ²)	\$477 / mo.	\$849 / mo.	\$2,136 / mo.	\$1,175 / mo.

Those below-FMV rates are based on the 2024 ACMG Non-Aeronautical Rent Study, which fails to comport with the FAA Compliance Guidance Letter 2018-3, and is deficient in following ways:

- The AMCG appraisal for setting non-aeronautical rates expired in December 2023, a year from its effective date. According to the Compliance Guidance Letter 2018-3 for Airport Appraisals, p. 19, a maximum of twelve months can elapse between the appraisal's effective date and the report date of the rent study. Here, over nineteen months elapsed from the December 6, 2022 effective date of the appraisal and the publication of the AMCG study on July 30, 2024. Therefore, the data acquired and relied on by AMCG is no longer relevant to the current market conditions in 2024, and a determination of FMV cannot fairly or accurately be determined from the outdated information AMCG relied on in its report.
- The AMCG Non-Aeronautical Rent Study ignores the FAA's requirement that non-aviation rental rates must be determined by comparison to like properties, based on the "highest and best use" of the subject properties, and instead unreasonably applies a 45% discount based on the rental rates of storage units AMCG surveyed that are not comparable to LAC airport hangars. (A-14 of Compliance Guidance Letter 2018-3, page 41.) This "apples to oranges comparison" is not an adequate basis for determining non-aviation rental rates and does not result in establishing FMV rates. For example, the AMCG Rent Study uses storage units within an eight-mile radius of the airport that range in size from 20 square feet to 360 square feet (and have a small roll-up door) to determine the FMV of hangars used for non-aeronautical purposes. LAC airport hangars range from 856 up to and over 1,512 square feet and have 24-hour drive-in access, paid utilities, and a security gate and thus far exceed the utility of a small public storage unit with a roll-up door. The AMCG report does not evaluate any other type of comparable property other than public storage whatsoever. Current non-aviation tenants use LAC hangars for warehouse storage, tow truck parking, and automobile repair, to name a few, and an appropriate rent study in compliance with FAA requirements would evaluate comparable rental rates for properties used for those purposes. Furthermore, the report does not give

⁸ See Exh. 2, available at <https://www.federalregister.gov/documents/2016/06/15/2016-14133/policy-on-the-non-aeronautical-use-of-airport-hangars#page-38911>.

the actual location of the referenced storage units. (Compliance Guidance Letter 2018-3, p. 31). AMCG's 45% discount is simply not supported by comparable rental units and does not bring LAC non-aviation rental rates to FMV.

- AMCG's out-of-state appraiser, based in Colorado, never visited the LAC properties, never visited the public storage units that serve as purported comps for the rent study, admits that he is unfamiliar with the region, and relies only on information provided by his colleague who visited the properties over three years ago. There was no recent site visitation. (See Exh. 4, disclaimer pages 40 and 41 in the VII. Appendix A & B of AMCG Non-Aeronautical Rent Study). Absent current on-site visitation, there can be no true or accurate assessment of the factors pertinent to an appraisal.
- LAC failed to commission a second appraisal, as required by the FAA Compliance Guidance Letter 2018-3 for properties with a gross value in excess of \$1 million. For example, even using conservative property value estimates for LAC aeronautic properties for non-aeronautic purposes, the aggregate value is in excess of \$20 million and thus requires LAC to seek at minimum a second appraisal.⁹ The estimated value of LAC property being used for non-aviation purposes at just one LAC airport, KEMT, is \$6,750,000: 45 aeronautical hangars used for non-aeronautical public storage currently at \$1,000/unit = \$540,000 gross annual rent at a 8% cap rate = \$6,750,000 property value.

Table 1, above, supports our claim that LAC is charging below FMV rents for non-aviation hangar use. The examples given for Executive Hangars and Row Bravo (B) T-hangars holds true for all other non-aeronautic hangar categories at KEMT. The table depicts current aviation rents, current non-aviation rents, the value AMCG derived from its market survey (\$30/sq/ft/year) and the deeply discounted rate ACMG recommends to LAC, which LAC has now adopted. From the AMCG reported data, LAC is charging 65% less than its comparable data revealed in the local marketplace, or 37% lower than the discounted recommended rate. In either case, LAC has knowingly been charging far below FMV rates for non-aviation use of hangars for public storage for many years. Of course, this ACMG data needs to be reviewed with scrutiny considering the serious deficiencies in the methodology of the study.

Claim 2, Violation of Grant Assurances, section C.22.A. By charging relatively high rental rates for aviation users, and below-FMV rates for non-aviation users, LAC is in violation of FAA Grant Assurance Rules, and broader policies, as discussed. LAC charges above competitive market rental rates for hangars used for aviation and aviation-related purposes, in violation of Grant Assurances, section C.22.A., which requires the sponsor to "make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering

⁹ Using the cap rate property valuation method outlined in the FAA Compliance Guidance Letter 2018-3, 137 hangars currently being used for non-aviation public storage at \$1,000/unit, comes to an income of \$1,644,000 per annum. Using a cap rate of 8%, this values the collective hangar property used for non-aeronautic purposes at \$20,550,000 (See Exh. 3, p. 9, Compliance Guidance Letter 2018-3 regarding proper appraisal methods: $\text{Gross Rent @ FMV} = (8\% \times 10)/(1-.03-.05) = \text{price per sq/ft}$). Setting rates for a \$20,000,000 property on a single flawed appraisal study, without a third-party review, does not comply with the 2018 Willis Compliance Letter, nor grant assurance rules regarding properly setting non-aeronautic property rates.

services to the public at the airport.”¹⁰ The AMCG Aeronautical Airport Rent Study Update¹¹ illustrates that LAC is charging rates for aeronautic rents that are 4–50% higher than competitive airports identified in its study (Table 2, column 4). The unduly high aeronautic rental rates are inconsistent with LAC’s obligation to “make the airport[s] available as an airport for public use on reasonable terms,” especially given the high vacancy rate of 24% of hangars not being used for aviation purposes.

Table 2: 2024 ACMG Aeronautic Rent Study Summary

Column	1	2	3	4	5	5
Hangar Size	\$ / Month Regional	\$ / Month Competitive	\$ / Month Current	Current / Competitive	\$ / Month Reccomended	Recommended / Competitive
Executive *	646	641	695	+ 8%	819	+ 28%
Large T	638	532	798	+ 50%	800	+ 51%
Med T	425	475	495	+ 5%	520	+ 9%
Small T	291	431	447	+ 4%	450	+ 5%

* At KEMT, G & E hangars are classified as ‘Executive’ and evaluated on a ‘Triple-Net’ rent basis.

All other hangars were evaluated on a ‘Gross / Month’ rent basis.

G & E hangars are 1,500 ft² and do not have a bathroom or storage rooms.

A 2020 AMCG Rent Study for KEMT defines ‘Executive’ hangar as 2,500 ft² or larger with a bathroom and storage rooms.

Claim 3. Failure to Make LAC Airports as Self-Sustaining as Possible. The 2024 AMCG Non-Aeronautical Airport Rent Study⁵ reports that LAC was charging 65% less than its comparable study results derived in the local marketplace and now is charging 37% lower than the discounted AMCG recommended rate (see Table 1, above). Even after the AMCG rent study, LAC continues to charge below FMV for this class of hangar use. In addition, there are 127 hangars on LAC airport property that are sitting idle, not marketed for aviation or non-aviation rental properties (see Table 3, below). In a marketplace where all other airports in the region have 100% aviation occupancy and a waitlist for hangars, LAC’s failure to market its vacant hangars violates the FAA’s requirement to make the airports self-sustaining. LAC should use additional revenue from renting vacant hangars for capital or operating costs of the airport and to offset aviation rental rates to make them competitive and attractive in the current marketplace, as required by 49 U.S.C. § 47101(a)(14) and 49 U.S.C. § 47107(b)(1).

¹⁰ See Exh. 1, Airport Improvement Program Grant Assurances for Airport Sponsors, May 2022, available at:

https://www.faa.gov/sites/faa.gov/files/airports/new_england/airport_compliance/assurances-airport-sponsors-2022-05.pdf

¹¹ See Exh. 7, AMCG Aeronautical Airport Rent Study Update, February 8, 2024, available at: <https://pw.lacounty.gov/avi/airports/documents/Rent%20Study/Aeronautical%20Airport%20Rent%20StudyUpdate-EMT-020824.pdf>

Table 3: Los Angeles County Airports Inventory of County Owned Hangars May 30, 2024

Airport	Total Hangars	Aeronautical Use	Non-Aeronautical Use	Vacant
Bracket	260	164	43	53
Compton	156	120	32	4
Fox Field	83	79	0	4
San Gabriel	265	198	45	22
Whiteman	325	264	17	44
Totals	1,089	825	137	127

VI. Request for FAA Investigation and Determination

LAC aviation tenants file this formal complaint and request that the FAA:

1. Investigate below-FMV rental rates set by LAC for hangars used for non-aeronautical purposes, including as public storage units, and require LAC to raise non-aeronautical hangar rates to FMV.
2. Evaluate the 2024 AMCG Non-Aeronautical Rent Study, commissioned by LAC, and its appraisal methods to determine compliance with FAA standards and guidelines.
3. Require that LAC offer its airports to the public on a fair and reasonable basis by adjusting aviation hangar rents to be competitive in the local marketplace and attractive to aviation.

Contact

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Citations

Airport Improvement Program Grant Assurances for Airport Sponsors, May 2022:

https://www.faa.gov/sites/faa.gov/files/airports/new_england/airport_compliance/assurances-airport-sponsors-2022-05.pdf

14 CFR Chapter 1 Final Policy on the Non-Aeronautical Use of Airport Hangars

<https://www.govinfo.gov/content/pkg/FR-2016-06-15/pdf/2016-14133.pdf>

49 USC 47107: Project grant application approval conditioned on assurances about airport operations :

<https://uscode.house.gov/view.xhtml?req=granuleid:USC-2012-title49-section47107&num=0&edition=2012>

AMCG Aeronautical Airport Rent Study Update – February 8, 2024:

<https://pw.lacounty.gov/avi/airports/documents/Rent%20Study/Aeronautical%20Airport%20Rent%20StudyUpdate-EMT-020824.pdf>

AMCG - Non-Aeronautical Airport Rent Study – July 30, 2024:

<https://pw.lacounty.gov/avi/airports/documents/Rent%20Study/Non-Aeronautical%20Airport%20RentStudy%20Update-LA%20County%20Airports-020824.pdf>

Compliance Guidance Letter 2018-3, Appraisal Standards for the Sale and

Disposal of Federally Obligated Airport Property:

https://www.faa.gov/sites/faa.gov/files/airports/airport_compliance/compliance_guidance/CGL-2018-3-Appraisal-Standards.pdf

PROOF OF SERVICE

I served the attached Part 16 Complaint on the following parties by electronic mail:

Paul Maselbas Aviation Division Director Department of Public Works Los Angeles County	pmaselbas@dpw.lacounty.gov
Mark Pestrella Public Works Director Los Angeles County	mprestrella@dpw.lacounty.gov
Dawyn Harrison, County Counsel Warren Wellen, Principal Deputy County Counsel Office of County Counsel	dharrison@counsel.lacounty.gov wwellen@counsel.lacounty.gov

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed on October 14, 2024, at Monrovia, California.

James Marc Haney



(Signature)