



The Commonwealth of Massachusetts

Aeronautics Commission

10 Park Plaza, Room 6620

Boston, Massachusetts 02116-3966

(617) 973-7350

CHAIRMAN

Norman J. Fredkin

COMMISSIONERS

Alvin S. Hochberg

William LaMont Thompson

Pamela Wolfe

DIRECTOR OF AERONAUTICS

Arnold R. Stymest

Robert Healy
City Manager
City Hall
Cambridge, Ma 02139

September 9, 1988

Dear Mr. Healy:

The Massachusetts Aeronautics Commission (MAC) has continued the matter of the renewal application for the Cambridge Hyatt Hotel helipad to a special meeting to be held on September 14, 1988 at 10:00 am in our offices. At that time the Commission will consider all comments from interested persons.

This notice of the meeting is being sent to the City Manager and Commissioner of Inspectional Services of the City of Cambridge, the spokeswoman of the Cambridge Helicopter Operations Patrol (CHOP), the General Manager of the Hyatt Hotel, and the President of Hub Express, Inc.

The Commission looks forward to a productive and useful meeting on this matter.

Sincerely,

MASSACHUSETTS AERONAUTICS COMMISSION

Arnold R. Stymest
Executive Director

AS:CS:b



The Commonwealth of Massachusetts

Aeronautics Commission

10 Park Plaza, Room 6620

Boston, Massachusetts 02116-3966

(617) 973-7350

CHAIRMAN

Norman J. Fredkin

COMMISSIONERS

Alvin S. Hochberg

Donna M. Kuha

Christine M. R. Rodriguez

William LaMont Thompson

DIRECTOR OF AERONAUTICS

Arnold R. Symest

September 9, 1988

Mr. Robert W. Healy
City Manager
City of Cambridge
Cambridge, MA 02139

Re: Hyatt Heliport

Dear Mr. Healy:

This is a follow up to my letter to you dated August 17, 1988.

First, the matter of the renewal application on the Hyatt Heliport has been continued to a special meeting to be held on September 14, 1988 at 10:00 a.m. in our offices. At that time the Massachusetts Aeronautics Commission ("MAC") will consider all comments from interested persons.

Second, while every effort will be made to respect the request in your letter dated August 29, 1988 to defer action on the renewal until a Certificate of Occupancy is issued by the Cambridge Inspectional Services Department, you can appreciate that the MAC's actions cannot be put off indefinitely. I feel that a reasonable time for the Inspectional Services Department to complete its review is 30 days. If action is not taken by Commissioner Joseph J. Cellucci on or before 30 days from the date of this letter, MAC intends to proceed with final action on the renewal application.

Third, I wish to explain MAC's position on the total ban on the siting of helipads and heliports adopted by the Cambridge City Council on June 6, 1988.

Local governmental bodies have no authority to ban all aircraft and helicopter landings within their jurisdiction. Not only are constitutional issues raised under the commerce clause, but such an outright prohibition conflicts with MAC's authority under General Laws, Chapter 90.

Mr. Robert W. Healy
September 9, 1988
Page 2

Under G.L. c. 90, §39, MAC has general supervision and control over aeronautics. Under §35, aeronautics includes establishment of airports and restricted landing areas ("RLA's"). Section 39B provides MAC review authority over the locations of airports and RLA's. For example, in order for a municipality to establish an airport it must receive a certificate of approval from MAC. Moreover, all airports and RLA's must conform with plans and specifications approved by MAC.

Under §39A, MAC is directed to prepare a plan for development of airports and air navigational facilities that include RLA's referred to as the Massachusetts Airport System Plan ("MASP"). The MASP represents "the projects considered by the commission to be necessary to provide a system of airports adequate to anticipate and meet the needs of civil aeronautics within the Commonwealth." Section 39A.

We contend that MAC is empowered under §§39, 39A and 39B to include in the MASP the requirement that, for example, certain concentrations of heliports be allowed in given regions of the state. The total ban of all helipads and heliports in a city such as Cambridge with numerous high-tech and other businesses that require convenient and fast helicopter service would be in conflict with such provisions in the MASP.

It follows that the efforts by Cambridge to ban all helipads and heliports is in conflict with state law (Chapter 90) and the responsibilities of a state agency (MAC) under that state law.

Consistent with this interpretation is the requirement in G.L. c. 90, §39B for MAC approval of local regulations relative to the use and operation of aircraft. Section 39B provides that such rules and regulations, ordinances and by-laws do not take effect until approved by MAC. I point out that the total ban adoption by Cambridge has not received MAC's approval. Therefore, such total ban has not taken effect.

If your Corporation Counsel Russell B. Higley has any questions on the above, he should call MAC's Counsel Frederick S. Paulsen at 542-0297.

As indicated in my August 17, 1988 letter, there are ways of controlling noise without recourse to outright bans. My staff is prepared to work with your planning staff in developing an approach as reflected in our Model Zoning

Mr. Robert Healy
September 9, 1988
Page 3

By-law to accommodate aviation uses in Cambridge as part of a well conceived land use plan and, if warranted, a special permitting process. We have had success with this process in working with other communities.

On the Hyatt situation, my staff and I will be happy to meet with you and representatives of Hub Express, Inc. and the Hyatt to further discuss reasonable ways of controlling noise. This will include consideration of placing conditions on our renewal approval pertaining to hours of operations, preferred directions of flight, etc.

I also made a number of suggestions on the problem of overflights in my August 17, 1988 letter. These are matters on which MAC will be pleased to cooperate with you in arriving at mutually acceptable solutions.

I would appreciate very much meeting with you to discuss the above.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Arnold R. Stymest". The signature is written in dark ink and is positioned above the printed name.

Arnold R. Stymest

cc: Joseph J. Cellucci, Commissioner, Inspectional Services
Russell B. Higley, Esquire
Robert E. McDonnell, Esquire
Vincent J. Panico, Esquire

S-545

Comm. from Arnold J. Stymest, Exec. Dir.,
Mass. Aeronautics Commission Re: meeting
of the Commission concerning the renewal ap-
plication for the Cambridge Hyatt Hotel
helipad to be held on September 14, 1988.

September 12, 1988

9-12-88
Placed on Rile.