“E”

Public Comments Received After Commencement of May 17, 2017, Public Hearing

Palmaz Personal Use Heliport, P14-00261
Planning Commission Hearing Date – September 6, 2017

From:	Tittel/Caloyannidis
To:	Ayers, Dana
Subject:	PALMAZ UP-000261
Date:	Sunday, May 28, 2017 6:31:52 PM
Attachments:	PALMAZ - AIRPORTS & REAL ESTATE VALUES.pdf PALMAZ - BRUCE WILLIS.pdf

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Dear Dana,

Please insert into the record:

1) Two Residential Real Estate Depreciation near airports studies

2) 5th District judge Robert Elgee blocks Bruce Willis private airstrip, citing Camas County Idaho showing "complete disregard" for property rights and the well-being of the neighborhood.

Thank you,

George

features

The Impact of Airport Noise on Residential Real Estate

by Randall Bell, MAI

abstract

As populations and airports expand, airport noise is an increasingly important issue for real estate analysts. In researching real estate damage issues, the topic of airport noise and its impact on property market values are particularly well-documented and well-researched areas. This article puts airport noise into the framework of the Detrimental Conditions (DC) Matrix, outlines the measurement of "noise," sets forth some of the health effects of airport noise, and addresses the impact that airport noise has on property market values.

As populations and airports expand, airport noise is an increasingly important issue for real estate analysts. In researching real estate damage issues, the topic of airport noise and its impact on property market values are particularly well-documented and well-researched areas. This article puts airport noise into the framework of the Detrimental Conditions (DC) Matrix, outlines the measurement of "noise," sets forth some of the health effects of airport noise, and addresses the impact that airport noise has on property market values. There are dozens of published studies on the topic, all of which virtually come to the conclusion that homes under or nearby the flight corridors of national or international airports experience some diminution in property market values.

An Overview of Detrimental Conditions

Diminution in value is the difference between the before and after market values of properties that have been damaged or taken. Hundreds of Detrimental Conditions (DCs) may impact real estate values, including environmental contamination, construction defects, geotechnical issues, eminent domain, economic declines, proximity issues, natural disasters, and many others. While identifying, categorizing, and analyzing these numerous DCs may seem overwhelming, the task becomes manageable when the fundamental stages and market value effects are considered in a logical sequence. The fundamental tools for a DC analysis, the DC Matrix, the DC Model, The Bell Chart, and the Three DC Approaches to Value, are set forth within the book *Real Estate Damages.*[1] On this basis, airport noise is generally categorized as a Class V Item of Disclosure, which is defined as being an externality or neighborhood condition, and is generally permanent in nature.

Detrimental Conditions Stages and Issues Related to Airport Noise

Utilizing the DC Matrix, it is apparent that several issues are relevant in studying airport noise. Based upon this discussion, the DC Matrix as related specifically to airports could be summarized as shown in Table 1.

1. Randall Bell, *Real Estate Damages: An Analysis of Detrimental Conditions,* (Chicago: Appraisal Institute, 1999).

Table 1 The DC Matrix—Airport Noise and Residential Properties

	Stages		
Issues	**Assessment**	**Repair**	**Ongoing**
Cost	Assessment by noise engineers and related costs	Noise mitigation such as double pane windows, insulation, etc.	Ongoing noise mitigation, i.e., water fountains, background music, etc.
Use	Not generally applicable	Not generally applicable	Possible
Risk	Not generally applicable	Not generally applicable	Market resistance, if any, as demonstrated by market data

Measuring Airport Noise

The perceptions and impacts of airport noise must be defined in order for them to be studied. Accordingly, a number of noise measurement methods are used by noise engineers. The impact of airport noise and those related perceptions are typically delineated by "noise contour lines" that vary from airport to airport, depending upon the size of the airport, prevalent wind directions, topography, and so forth. By measuring noise contours, a standard can be derived whereby the impact of noise from different airports can be compared.

Noise is unwanted sound. By that definition, the sound emanating from jet aircraft is considered noise to most people.[2] The real estate professional needs to assess the market's perceptions towards airport noise, knowing that those perceptions are then translated into sales prices when the properties are sold and other indications of market values. While most agree that excessive noise is bothersome, it is a subjective issue. For example, what is more annoying—a single firecracker or five motorcycles driving by at one-minute intervals? Is one motorcycle at 73 dB (see Table 2 for noise measurement terms and definitions) for 5 seconds more or less annoying than a jet at 68 dB for 27 seconds? Moreover, is the noise more annoying during the day or at night? If at night, how much more annoying is it?

In an effort to answer these questions, there has been a proliferation of noise measurement terms, techniques, and acronyms. To add to the confusion, there are ongoing debates over the merits of each approach. In an effort to provide at least some clarification of these issues, the following table outlines the primary noise measurement terms, their meanings, and comments that are summarized from various published sources. It is important to note that each of the noise measurement systems is scientifically designed to measure the level of noise, not the measure of annoyance.

To illustrate this issue, noise measurement methods measure noise in somewhat the same way the volume of water in a river can be measured. For example, the total gallons flowing past a certain point per day, the speed of the river, the volume between two points at a specific period in time, the peak levels, and so forth. However, these measurement techniques are not intended to measure flood-related damage, which in turn cause annoyance. The techniques themselves are only designed to measure noise.

Noise Mitigation

There are only three ways to mitigate noise: (1) quiet the source, (2) put more distance between the source of the noise and the receptor, and (3) build or create a barrier to the noise. It is often infeasible for homeowners to have control over quieting the source of jet noise, and it is equally impractical to move their house further from the airport. The third choice is often the only option for homeowners who are impacted by airport noise. For example, attics and walls may be insulated and double pane windows may be installed. On an ongoing basis, background music, fountains, or running water may "drown out" some of the noise. Of course, outside activities such as barbecues, sports, swimming, and so forth do not generally benefit from these measures. It is estimated that airport noise heard within the interior of a property with lightweight construction is reduced from 15 to 30 dBAs. According to a 1972 study, the most recent obtainable, mobile homes reduce jet landing noise levels by 14 dBA to 23 dB(A).[3]

The primary problem with double pane windows is that they must be kept closed to effectively reduce airport noise. With the costs of air conditioning, this can be a significant factor to a household budget where the climate is mild and where natural breezes would otherwise cool. Citing these concerns, it is

2. Lester Reingold, "Research not Regulation," *Air Transport World* (May, 1995): 79.

3. Robert S. Stone, Kenneth R. Regier, and Ellwyn Brickson, "The Human Effects of Exposures to Aircraft Noise in a Residential Environment," Division of Environmental Health, Orange County Health Department (May 19, 1972): 37.

Table 2 Airport Noise Comparison Chart

Term	Meaning	Comments
dB	Decibels	The most fundamental of noise measurements, however, this scale fails to account for noise frequency.
dB(A)	Decibels with "A Weighting"	The most common measurement of noise, with the "A weighting" which accounts for the fact that humans do not hear low frequencies and high frequencies as well as they hear middle frequencies, and corrects for this accordingly.[1] (There are also "B" and "C" ratings that are not discussed here.) The "A weighting" has become so common that it is often considered synonymous with dB. It is a geometric (not logarithmic) scale measured in tenths. The term "decibels" is derived from "decimals," meaning "a tenth," and from the developer, Alexander Graham Bell.

What People Will Accept Without Undue Complaint[2]

Location	Day dBA	Night dBA
Rural residential	35–40	25–35
Suburban residential	40–50	30–40
Urban residential	45–55	35–45
Commercial	55–65	45–55
Industrial	60–70	50–60

Estimated Community Response to Noise[3]

Noise Level in dB(A) Above Acceptable Level	Estimated Community Response
0	No observed reaction
5	Sporadic complaints
10	Widespread complaints
15	Treats of action
20	Vigorous action

Human Effects Criteria for Noise Control[4]

Objectives	Noise Levels at Which Harmful Effects Begin to Occur, dB(A)
Prevention of hearing loss	75–85
Prevention of extra-auditory physiological effects	65–75
Prevention of speech interference	50–60
Prevention of interruption of sleep	45–50
Satisfying subjective preferences	45–50

PNL	Perceived Noise Level	An active band analysis that measures noise in one octave intervals. Measures sound in each octave and compensates for discrete tones that are annoying but not necessarily loud, such as a scratch across a blackboard.
EPNL	Effective	Similar to PNL but measures noises in one-third octaves. This is a noise measurement method Perceived where the decibels of the noise of an aircraft includes the loudness and the frequency Noise Levelspectrum of the noise for takeoffs and landings. This measurement utilizes EPBdB over time.
EPNdB	Effective Perceived Noise Level in Decibels	Noise generated by a single event. Few people can detect a sound below 5 EPNdB. An increase of 10 EPBdB is usually perceived as a doubling of loudness.[5] This system requires rigorous mathematical calculations and accounts for the qualities of jet noise that are particularly annoying.
SEL	Sound Exposure Level	A measurement of noise that accounts for both sound intensity and duration.[6] The net noise energy is calculated from the area of a triangle formed by the graphically illustrated increase, peak event, and decrease of a noise event and converted into a one-second measurement.
SENEL	Single Event Noise Exposure Level	Synonymous with SEL.

1. FAA WebPages–April, 1999. "Aircraft Noise: How We Measure It and Assess Its Impact," <http://www.faa.gov/region/aea/noise/tindxbrkdwn.htm>.
2. Table III, "What People Will Accept Without Undue Complaint," Table IV, "Estimated Community Response to Noise," Orange County Health Department Report (1972).
3. Ibid.
4. Ibid.
5. FAA WebPages–April, 1999. "Aircraft Noise: How We Measure It and Assess Its Impact," <http://www.faa.gov/region/aea/noise/tindxbrkdwn.htm>.
6. Ibid.

Table 2 Airport Noise Comparison Chart *(continued)*

Term	Meaning	Comments
CNR	Composite Noise Rating System	A graphically produced measure which is used to measure aircraft noise annoyance on the house based on the number of flights, the time of day, and the perceived loudness of noise.[7] Any rating less than 100 CNR is designated as CNR Zone 1, from 100 to 115 is Zone 2, and any CNR greater than 115 is Zone 3.[8] On that basis, a rough approximation of CNR Zones and dBA can be made of Zone 1 being less than 67 dB(A), Zone 2 ranging from 67 dBA to 82 dBA, and Zone 3 being greater than 82 dB(A).[9] This is a scientifically valid approach but on a practical basis has been largely replaced by the DNL measure (see below) in more current noise studies.
NEF	Noise Exposure Forecast	Provides a measure of the total aircraft-generated noise energy received at locations near an airport during a typical 24-hour period, with an added penalty for nighttime (after 10 PM) noise.[10] The NEF method has been adopted by the Department of Housing and Urban Development, which will not guarantee mortgages on properties within NEF 40+ and generally considers properties with NEF 30+ unacceptable.[11] At below NEF 30, few people complain. At 30 to 40 NEF, individuals may complain and there may be group action. At 40+ NEF, there are numerous and repeated complaints and group action is probable.[12] NEF = Ldn 65; NEF 40 = Ldn 75.[13] This is a scientifically valid approach but on a practical basis has been largely replaced by the DNL measure in more current noise studies.
CNEL	Community Noise Exposure Level	A metric measurement method that is used in some areas of California. It has an additional night penalty over and above the DNL method. Specifically, it has a 5 dB(A) penalty for evening noise in addition to the 10 dB(A) penalty of night noise. Thus, CNEL noise contours tend to be larger than DNL contours.[14]
ASDS	Aircraft Sound Description System	A "time above" system that measures the time that noise exceeds a certain level, for example, the time during a 24 hour period in which the noise exceeds 85 dB(A). This is a scientifically valid approach but on a practical basis has been largely replaced by the DNL measure in more current noise studies.
DNL or Ldn	Day Night Average Sound Level	A sound measurement scale that accounts for nighttime noise levels where sounds between 10:00 PM and 7:00 AM incur a 10 dB(A) penalty over a 24 hour period, and accounts for various weather patterns that may affect noise levels. This means that one nighttime event is considered equal to 10 daytime events at the same level. (As an approximate conversion, NEF 40 = Ldn 75).[15] Generally speaking, this measurement scale converts the dB(A) of various noise events into SEL, which measures the noise level of each individual event in a one-second period. These individual events are then computed over the 24 hour period to reflect a DNL. One should be cautious before using DNL measurement in measuring disruption or annoyance; however, according to one study, Ldn has been correlated to the following:[16] **Disruption** — **DNL or Ldn Level** Low — 60–65 Ldn Moderate — 60–70 Ldn Substantial — 70–75 Ldn Severe — 75–80 Ldn The FAA identifies a DNL level of 65 generally as the threshold noise level of aviation noise. The EPA identifies 55 DNL as a threshold level. These disparities, however, do not mean or suggest that no one is annoyed below these levels, although this error in judgement is commonly made. According to one study, approximately 12% of people experiencing noise below 65 DNL are "highly annoyed" at this level. 55 to 65 DNL is described as "moderate exposure" to noise.

7. Peter Mieszkowski and Arthur M. Saper, "An Estimate of Airport Noise on Property Values," *Journal of Urban Economics* (1978): 25.
8. Robert S. Stone, Kenneth R. Regier, and Ellwyn Brickson, "The Human Effects of Exposures to Aircraft Noise in a Residential Environment" Division of Environmental Health, Orange County Health Department (May 19, 1972): 25–26.
9. Ibid., 32.
10. FAA WebPages–April, 1999. "Aircraft Noise: How We Measure It and Assess Its Impact," <http://www.faa.gov/region/aea/noise/tindxbrkdwn.htm>.
11. FAA WebPages–April, 1999. "Aircraft Noise: How We Measure It and Assess Its Impact," <http://www.faa.gov/region/aea/noise/tindxbrkdwn.htm>.
12. Ibid.
13. Ibid.
14. Booz-Allen & Hamilton Inc., "The Effect of Airport Noise on Housing Values: A Summary Report," Office of Environmental and Energy Federal Aviation Administration (September 15, 1994): 19.
15. FAA WebPages–April, 1999. "Aircraft Noise: How We Measure It and Assess Its Impact," <http://www.faa.gov/region/aea/noise/tindxbrkdwn.htm>.
16. Marvin Frankel, "Aircraft Noise and Residential Property Values: Results of a Survey Study," *The Appraisal Journal* (January, 1991): 106.

Table 2 Airport Noise Comparison Chart *(continued)*

Term	Meaning	Comments
DNL or Ldn	Day Night Average Sound Level	DNL is not intended or considered to be a good indication of "single event" noise. A 65 DNL is equivalent to 87.5 dBA with 500 events, 94.4 dBA with 100 events, and 97.4 dBA with 50 events. A single event at 97.4 dBA, while considered somewhat "acceptable" under the 65 DNL threshold would actually be equivalent to the noise from a power mower or a newspaper press.[17] In other words, because of the "averaging" effect of DNL noise measurements, a person could be abruptly aroused from sleep every night, but the remaining 24 hours of quiet would result in a DNL measurement that would be very low, yet erroneously suggesting that there was no annoyance. The DNL is a scientifically valid measurement of noise; however, some have inferred that its measurements reflect something that it is simply not designed to do. For these and other reasons, the interpretations of the DNL method are controversial and considered by many to be a "fictitious" averaging of sound. Accordingly, it has been widely criticized for understating the practical effects of noise and the related annoyance.[18]
Leq	Level of Equivalent Sound	Measures the number of events or energy summation, the exposure level, and the time-average of sound over a specified period of time.[19] This method of measuring the volume of noise collected has been compared similarly to the way rainwater is collected in a coffee can over a period of time.
NNI	Noise and Number Index	Like NEF (see below), NNI combines measures of loudness and number of events into a single cumulative index. 30 NNI equals 73 planes a day at 82 PNdB–about as loud as a vacuum cleaner at 10 feet. It differs from NEF in the way that it measures loudness as the maximum perceived noise level for each event. Like NEF, it is a cumulative energy measure and therefore may mask the hedonic effects of loudness and number of events.[20] The measure is further criticized as understating annoyance.[21] This is a system utilized primarily in Great Britain.

17. FAA WebPages–April, 1999. "Aircraft Noise: How We Measure It and Assess Its Impact," <http://www.faa.gov/region/aea/noise/tindxbrkdwn.htm>.
18. FAA WebPages–April, 1999. "Aircraft Noise: How We Measure It and Assess Its Impact," <http://www.faa.gov/region/aea/noise/tindxbrkdwn.htm>.
19. Ibid.
20. Terrence J. Levesque, "Modeling the Effects of Airport Noise on Residential Housing Markets," *Journal of Transport Economics and Policy* (May, 1994): 200.
21. M. E. Paul, "Can Aircraft Nuisance Noise be Measured in Money?" Report of the Commission on the Third London Airport, H. M. S. O. (1971): 299.

reported that some home owners in Australia have gone to the extreme of installing microphones, micro-processors, and mechanical arms that shut the windows temporally as nearby jets take off and land at a nearby airport.

There are many instances where adequate noise mitigation was simply not possible and the highest and best use was indeed impacted. For example, large residential neighborhoods were demolished near Los Angeles International, Sea-Tac, and Phoenix Sky Harbor Airports. At the Las Vegas International Airport, a large subdivision, with noise levels under the 65 DNL levels established by the FAA were purchased and subsequently rented by the County. This reflects the concept that property owners may react more negatively than renters do. While generally there is no impact on the highest and best use of a residential property due to aircraft noise, these instances show that in more extreme situations, the noise issues cannot be mitigated and the highest and best use has changed from residential to some other use. Based upon factors like these, when considering airport noise, it may not be prudent to construct new residential improvements to replace older residential improvements that are at the end of their physical life. While this article focuses on noise issues, air quality, jet blasts, and health issues might also be additional issues that the analyst must consider.

Airport Noise and Health-Related Issues

While a real estate analyst primarily focuses on and measures the impact of airport noise on property market values, it should be noted that airport noise is associated with a variety of "costs," of which the impact on real estate is only one. In addition, airport operations may cause a variety of effects such as noise, visual impairment, pollution, traffic, emotional, and health-related effects. Of course, these other costs are outside the scope of the real estate analyst's direct realm of expertise. However, it would be naive to assume that real estate is the only issue. Some of these other issues are briefly addressed here.

Some speculate that noise is not a major health problem because people adapt to it; however, according to one published source, this is a myth.[4] Noise re-

4. Robert S. Stone, Kenneth R. Regier, and Ellwyn Brickson, "The Human Effects of Exposures to Aircraft Noise in a Residential Environment," Division of Environmental Health, Orange County Health Department (May 19, 1972): 2.

lated stress has a measurable impact on human health. A 1993 study of Los Angeles International Airport (LAX) indicated that cardiovascular disease increased 18%, and accidental deaths increased 60% for people over 75. Suicides doubled for people between 45 and 54. Approximately 60 more people died each year.[5] A British study of doctors working at Springfield Mental Hospital shows that admissions per 1,000 people who live near London's Heathrow Airport are significantly higher than those from a population in a near-by quieter area.

The Orange County Health Department in California published one of the most comprehensive health-related studies reviewed.[6] It utilizes the CNR Zones 1, 2, and 3 to reflect various impacts on health. It states that airport noise can specifically cause sleep disturbance, physiological stress reactions, temporary threshold shifts in hearing, interference with speech and communications, and psychological distress. Further, the study cites that health is not simply the absence of organic disease, but rather a total state of physical, mental, and emotional well being. The study further states "it is clear that excessive and needless noise constitutes a nuisance at best, a health hazard at worst."

The effects of noise on people can take many other forms as well[7]:

1. Noise can interfere with speech and other forms of communication.
2. Noise can produce physiological stress reactions with may turn out to have significant long-term health implications.
3. Noise can be a major source of annoyance by disturbing sleep, rest, and relaxation.
4. Noise can interfere with the performance of complicated tasks.
5. Noise can reduce the opportunity for privacy.
6. Noise can cause temporary hearing losses, which, if repeated, will result in chronic hearing loss.

The report further states:

> Typically, an emotional reaction occurs when a homeowner, for example, purchases a residence near an airport or freeway without really being aware of the noise, perhaps because the decision to buy is made on a weekend when the noise level is at its lowest. However, after an investment is made, and the full extent of the noise is realized, a feeling of regret and depression occurs. One couple interviewed during a community noise survey of Seal Beach bought a home adjacent to the San Diego freeway where sound levels average 60 dBA at night and 73 dBA during the day. Then, after living there a few days, they put the property up for sale. That was over four years ago and they still can't sell the house. Their daughter of five years is reportedly developing hearing problems and has difficulty understanding the difference between similar words like *candy, sandy,* or *dandy.* This couple realizes their error but can do nothing to rectify it. There is little doubt that they have been seriously affected, psychologically, by this situation.[8]

The report goes on to describe numerous and various noise (specifically airport noise) related disorders, including (a) subjective, or mental health, effects, (b) sleep disturbance and deprivation, (c) interference with speech and communication, (d) physiological effects, and (e) hearing loss.

The Impact of Airport Noise on Market Values

When commercial jet operations commenced in 1959, the Federal Aviation Administrator had to get an unlisted home phone number because outraged citizens called him at night and harassed him about aircraft noise.[9] The subject still strikes an emotional cord with many people today, and the body of published literature consistently reflects a real and negative impact on property market values. Some have speculated that the convenience and economic revenues from an airport serve to offset any diminution in value; however, nothing in the body of published literature supports this notion. In fact, it is directly dispelled in an article published in the *Journal of Transport, Economics and Policy,* which utilizes hedonic regression to show that NNI 50 properties sustain a diminution in value ranging from approximately -7% to -12%.[10] While tremendous economic benefits and revenues clearly are associated with a large airport, those under or nearby the flight path tend to suffer a net negative impact.

5. W. C. Meecham, and N. A. Shaw, "Increase in Mortality Rates Due to Aircraft Noise," *Schriftenreihe des Vereins fur Wasser-, Boden-und Lufthygiene* (88, 1993): 428–441.
6. Robert S. Stone, Kenneth R. Regier, and Ellwyn Brickson, "The Human Effects of Exposures to Aircraft Noise in a Residential Environment," Division of Environmental Health, Orange County Health Department (May 19, 1972).
7. Ibid.
8. Ibid.
9. Lester Reingold, "Research not Regulation," *Air Transport World* (May, 1995): 79.
10. Alan Collins and Alec Evans, "Aircraft Noise and Residential Property Values: An Artificial Neural Network Approach," *Journal of Transport Economics and Policy* (May, 1994): 194.

The issues are widespread. Approximately six million Americans currently reside on 900,000 acres of land exposed to levels of aircraft noise that creates a significant annoyance for most residents (NEF 30+). Furthermore, 600,000 Americans reside in areas that are severely impacted by aircraft noise, that is, areas in excess of NEF 40.[11] Despite the magnitude of noise problems, no single or universal criterion defines a "noisy" airport.[12]

The fact that a property is situated near a noise source is not automatic evidence of a loss in market value. The analyst must therefore find and employ valid methods of accurately measuring market value loss. Measuring the impact of noise on property market values is generally a relatively simple concept of a paired-sales analysis; however, linear regressions and hedonic modeling are also frequently used. Unfortunately, as illustrated in the discussion of various noise measurement methods, no single standard exists, which adds to the complexity of a study. However, in context of these various methods, consistent themes and correlations emerge.

In studying the "most likely impact" of airport noise on real estate damages, it should be recognized that there are outlying extremes. Like many detrimental conditions, there is a segment of the market that appears to be almost immune to the effects, while at the opposite extreme there is often a segment that will not purchase a property at any cost that is impacted by a detrimental condition. For example, a portion of the population seems more or less imperturbable.[13, 14] If located close to an airport or under a flight path, these people are still not seriously disturbed.

Nevertheless, for most people, noise is a significant issue, and there is a segment of the population that will live under a major flight corridor if enticed through a discount on the price.[15] However, a slight majority of the market will not purchase a property that is close to a major airport *at any discount.*[16] Similarly, a significant portion of the market will neither purchase a property that is close to a motorway, nor one that is a few miles from a major airport.[17] Furthermore, those with special political agendas, such as pro- or anti-airport groups, often selectively cite study results such as these. A proper and unbiased study should consider the net effects of these issues on balance.

While some real estate analysts may initially believe that any potential buyer will purchase a damaged property if discounted enough, this is simply not true. To illustrate, consider a run down house in the middle of a heavy industrial area. Certainly a significant portion of the typical residential market will simply not purchase the property at any discount, as they simply will not live in such an area under any conditions and have no interest in buying, renting, or reselling such properties.

One of the most important studies published to date was conducted for the Federal Aviation Administration in 1994.[18] It studied three airports using a regression analysis: Baltimore/Washington International Airport (BWI), Los Angeles International Airport (LAX), and John F. Kennedy Airport (JFK) in New York. The results indicated a consistent negative impact on residential property market values.

The BWI study had significant limitations, yet reflected homes near airports that would have a market value loss ranging from -$627 to -$14,595 per home. The LAX study was more straightforward. It included a study of both low priced and moderately priced neighborhoods. The study indicated that the adjusted market value of a low priced home was $1,268 less if impacted by airport noise, or -0.07 per dBA above a quiet threshold.[19] Moderately priced homes incurred a $60,873 loss if impacted, or 1.12% per dBA above a quiet threshold (which is not specified). Losses of the total home market value ranged from -0.8% for low priced homes and ranged from -15.7% to -19% for moderately priced homes.

The JFK study includes low, moderately, and high priced homes. It indicates a loss of -0.12% per dBA for low priced homes, -0.46% per dBA for moderately priced homes, and -1.35% per dBA for high priced homes.

The FAA study, while lacking a complete discussion of many issues, yields some significant informa-

11. FAA WebPages–April, 1999. "Aircraft Noise: How We Measure It and Assess Its Impact," <http://www.faa.gov/region/aea/noise/tindxbrkdwn.htm>.
12. Ibid.
13. M. E. Paul, "Can Aircraft Nuisance Noise be Measured in Money?" Report of the Commission on The Third London Airport, H. M. S. O. (1971): 298.
14. These market participants are termed the "survivor population."
15. This is called the "enticed population."
16. These market participants are termed the "exodus population."
17. M. E. Paul, "Can Aircraft Nuisance Noise be Measured in Money?" Report of the Commission on The Third London Airport, H. M. S. O. (1971): 316.
18. Booz-Allen & Hamilton Inc., "The Effect of Airport Noise on Housing Values: A Summary Report," Office of Environmental and Energy Federal Aviation Administration (September 15, 1994): 17.
19. A quiet threshold is generally considered to be that in an otherwise similar neighborhood but without airport noise.

tion. First, entry-level homes are impacted less as compared to moderately priced homes. In fact, the loss in market value low priced homes is generally minimal. This trend could be expected, as high priced homes are often in areas with more desirable neighborhood traits. Second, the study shows that the loss to moderately priced homes is as high as 19%, a significant figure as conventional loans often require a down payment of 20%. In other words, homebuyers who purchase a home with out knowledge of plans for an airport to be built nearby may stand to lose most or all of their equity if an airport is subsequently developed. Further, the reduction in value of a high priced home will be approximately 2.5 times that of a moderately priced home. This finding is also illustrated by a British study (see Table 3).

The FAA study correlates fairly well with a variety of other published studies. A study published in the *Journal of Environmental Economics and Management* indicates that an increase of NEF 5 over threshold noise levels would decrease the market value by 2.5%.[20] Another study in the same journal indicates a diminution in value of 0.67% per NEF. Yet another study in the same journal reflects a loss of 0.4% per NEF and refers to other studies with losses of 1% or more per NEF.[21]

Additional insights are added by a study published in the *Journal of Transport, Economics and Policy* which indicates that a one unit increase in NEF results in a diminution in value of 0.65% in property market value for detached housing.[22]

Comparing the market value of properties with no significant noise (less than 35 NNI) to those with airport noise, a study published in *Land Economics*, indicates what's demonstrated in Table 3.[23] Another study, also utilizing NNI noise contours, reflects these results (see Table 4).[24]

While utilizing a different noise measurement method of NNI, these studies reflect much of the same concepts as other studies. Namely, the higher the relative price of a property, the higher the diminution in value. According to the studies above, the highest loss is 22.5% to 29% for high-class housing, which reconciles somewhat with the 19% loss reflected in the FAA study for moderately priced housing. These results are also somewhat consistent with yet another published study that cites losses of 0.4% to 1.1% per NNI.[25]

A study published in *The Appraisal Journal* further correlates with many of these findings utilizing the Lnd method. It indicates a loss of market value ranging from 1.2% of low-impact properties to 21.5% for severely impacted properties. This study also reflects numerous instances in which communities or sectors were assigned to a noise category not consistent to their actual noise status.[26] These findings reconcile with the comments

Table 3 Percentage of Price Depreciation of House Value

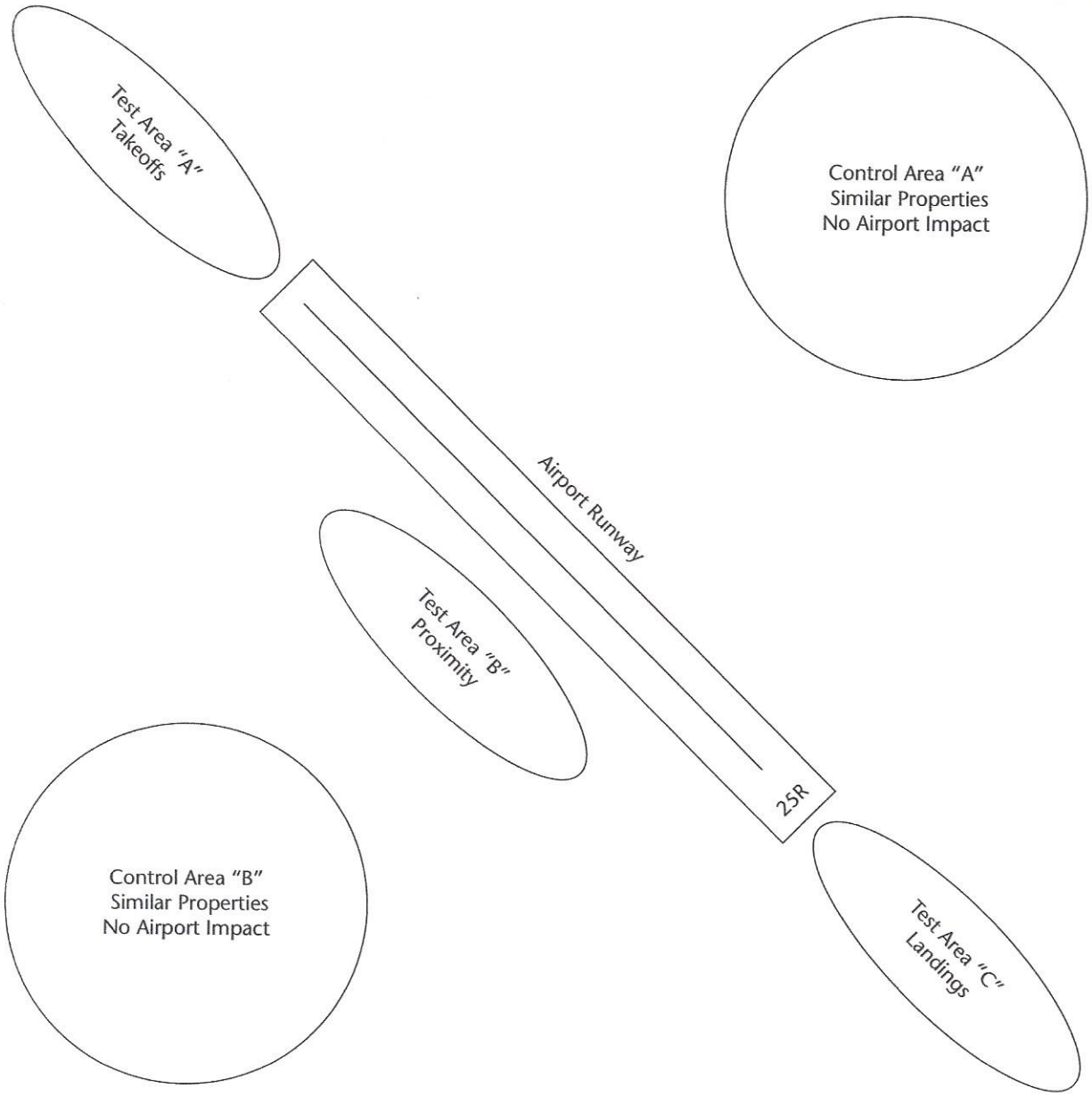
	Noise Zones		
Class of Property	**35–45 NNI**	**45–55 NNI**	**55+ NNI**
Low	0.0	2.9	5.0
Medium	2.6	6.3	10.5
High	3.3	13.3	22.5

Table 4 Percentage Depreciation of House Property Values Compared with Houses Outside the 35 NNI Contour

Class of Property	**35–45 NNI**	**45+ NNI**
Low	4.5	10.3
Medium	9.4	16.5
High	16.4	29.0

20. John P. Nelson, "Airport Noise, Location Rent, and the Market for Residential Amenities," *Journal of Environmental Economics and Management* (March 27, 1979): 329.
21. Peter W. Abelson, "Property Prices and the Value of Amenities," *Journal of Environmental Economics and Management* (January 5, 1979): 23.
22. Dean Uyeno, Stanley W. Hamilton, and Andrew J. G. Biggs, "Density of Residential Land Use and the Impact of Airport Noise," *Journal of Transport Economics and Policy* (January, 1993): 9.
23. Jonathan H. Mark, "A Preference Approach to Measuring the Impact of Environmental Externalities," *Land Economics*, (56:1): 85.
24. M. E. Paul, "Can Aircraft Nuisance Noise be Measured in Money?" Report of the Commission on The Third London Airport, H. M. S. O. (1971): 302.
25. Eran J. Feitelson, Robert E. Hurd, and Richard R. Mudge, "The Impact of Airport Noise on Willingness to Pay for Residences," *Pergamon* (April 5, 1996): 3.
26. Marvin Frankel, "Aircraft Noise and Residential Property Values: Results of a Survey Study," *The Appraisal Journal* (January, 1991): 108.

Exhibit 1 Airport Diminution in Value Study



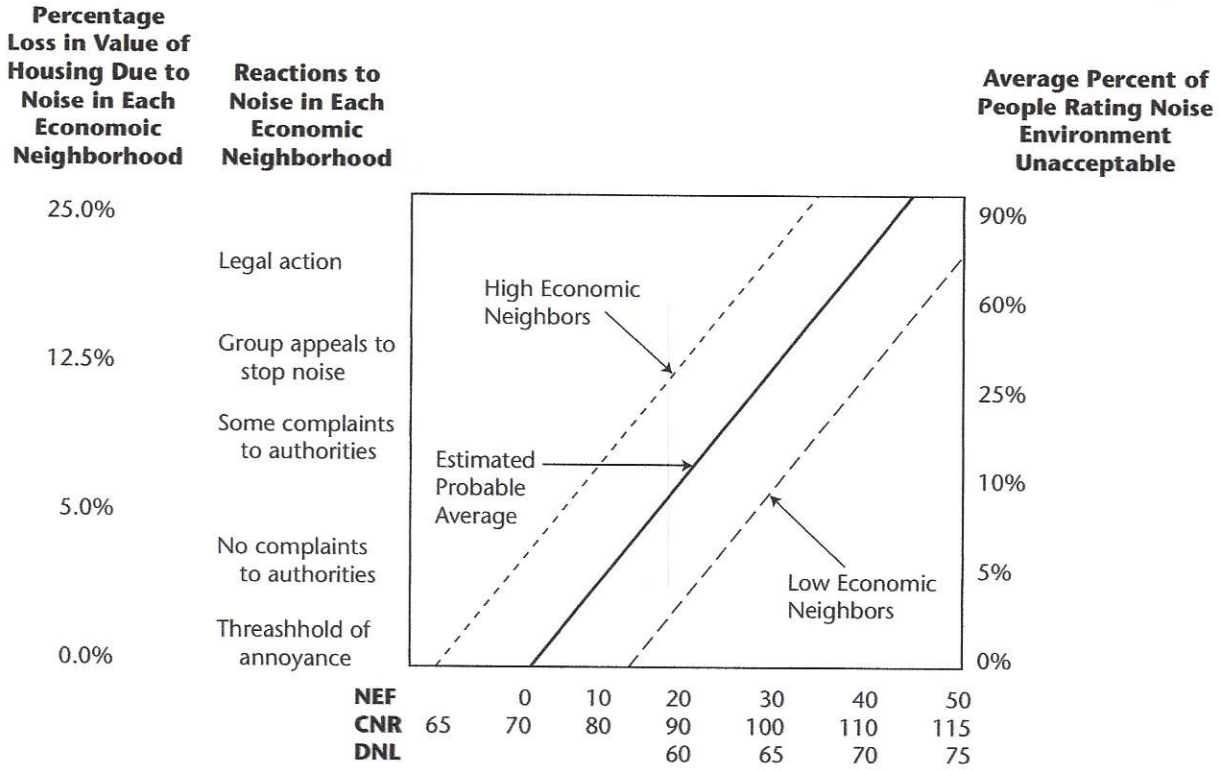
previously cited that certain "noise averaging" methods are considered controversial.

Conclusions

There are hundreds of DCs that may impact property market values. Airport noise is generally considered to be a Class V DC, meaning that it is an externality that is imposed onto property owners and generally on a permanent basis. As a Class V issue, airport noise has specific issues as outlined in the DC Matrix. These are assessment costs, repair (mitigation) costs, ongoing use costs, and ongoing market resistance. Noise is measured in a variety of ways and with various scales, which can be confusing to the non-noise engineer. The dB(A) is the basic unit of noise measurement. DNL is largely used; however, this is a "noise averaging" method that has been criticized because it does not address annoyance. Annoyance can therefore be understated by "averaging."

As populations expand, so will airports, which in turn will create more frequent valuation challenges for real estate analysts. The impact of noise from a na-

Exhibit 2 Relation Between Various Effects of Habitual Environmental Noise and a Composite Noise Rating, CNR and NEF



Source: Commission of London's Third Airport Papers and Proceedings VII, Part II, and Furthur Research Team Work 51. DNL and CNL reference added on sale of NEF30 = 65 DNL and NEF40 + 70 DNL.

tional or international airport on residential properties is universally negative on residential property market values under or near a heavy flight corridor. A significant portion of the population will not live in a home that is impacted by airport noise at any cost or discount. On the other hand, some of the population seems more or less impermeable to airport noise. On balance, the published studies cited here suggest that detached single-family homes under or nearby a final or down-wind flight corridor will suffer a measurable diminution in value. Various studies indicate that there is a correlation between noise levels, as measured by noise contours, and the diminution in value suffered. Further, according to the studies completed for the FAA, detached housing tends to be impacted more than semi-detached or terraced housing. The data suggests that more expensive homes tend to be impacted more than less expensive homes. Rural areas tend to be impacted more than suburban areas, which in turn tend to be impacted more than urban areas. Other research indicates that the number of flights is less important than the loudness and variability of the loudness of single events.[27] For this reason, single event dBL should be considered carefully.

Randall Bell, MAI, is a principal with the firm Bell Anderson & Sanders LLC with offices in Laguna Beach, California. His firm specializes in real estate and environmental damage valuation assignments nationwide. Mr. Bell is the author of the Appraisal Institute's text *Real Estate Damages*, and was the developer of the *Detrimental Conditions and Real Estate Disclosure* seminars. Mr. Bell is a licensed appraiser and broker and has a MBA in Real Estate from UCLA. **Contact: Bell@RealEstateDamages.com.**

27. Terrence J. Levesque, "Modeling the Effects of Airport Noise on Residential Housing Markets," *Journal of Transport Economics and Policy* (May, 1994): 209.

AVIATION NOISE LAW

Airport Noise and Residential Property Value

Effects of Airport Noise on Housing Value

In 1994 the consulting firm of Booz-Allen & Hamilton, Inc. prepared a report titled *The Effect of Airport Noise on Housing Values: A Summary Report* for the Federal Aviation Administration. The report describes a methodology for evaluating the impact of noise on housing values. The methodology essentially compares market prices in similar neighborhoods that differ only in the level of airport-related noise. In pilot studies using this method, Booz-Allen found that the effect of noise on prices was highest in moderately priced and expensive neighborhoods. In two paired moderately priced neighborhoods north of Los Angeles International Airport, the study found "an average **18.6 percent** higher property value in the quiet neighborhood, or 1.33 percent per dB of additional quiet." (See Bibliography: Impacts of Noise on Property Value.)

A 1996 study funded by the Legislature of the State of Washington used a somewhat similar methodology and found that the proposed expansion of Seattle-Tacoma Airport would cost five nearby cities $500 million in property values and $22 million in real-estate tax revenue. The study of single-family homes -- all in "very good" condition, with three or more bedrooms and two or more baths, and excluding the most expensive and inexpensive units to provide more representative comparisons -- found that "a housing unit in the immediate vicinity of the airport would sell for **10.1 percent** more -- if it were located elsewhere."

The Washington study also concluded: "all other things remaining equal, the value of a house and lot increases by about 3.4% for every quarter of a mile the house is farther away from being directly underneath the flight track of departing/approaching jet aircraft." (Details can be found in Sections 9.01 - 9.07 of the study.)

In 1997 Randall Bell, MAI, Certified General Real Estate Appraiser, licensed real estate broker, and instructor for the Appraisal Institute, provided the results of his own professional analysis to the Orange County Board of Supervisors. Comparing sales of 190 comparable properties over six months in communities near Los Angeles International Airport, John Wayne Airport, and Ontario Airport, Bell found a diminution in value due to airport proximity averaging **27.4 percent**. (See the full report.) Bell has also developed a list of over 200 conditions that impact real estate values -- airport proximity is categorized as a "detrimental condition."

Disclosure of Airport Noise to Buyers

California law requires sellers to reveal noise and other nuisance factors in a Real Estate Transfer Disclosure Statement prior to sale, permitting prospective buyers to look elsewhere or to lower their offers.

As of January 1, 2004, residential property owners in California are required, under certain circumstances, to disclose to prospective buyers that the property is in the "vicinity" of an airport (Assembly Bill 2776, 2002). (See AB 2776.)

Avigation Easements

Airports can acquire avigation easements in the airspace over neighboring properties in order to (1) prevent construction of buildings and towers, planting of trees, installation of lighting, or any other development that might interfere with aircraft takeoff and landing, or (2) protect against liability for any nuisance caused by airplanes using the airport, i.e., the impact of noise, fumes, and vibration on the "use and enjoyment" of properties under the flight paths to and from the airport. The former is a type of "hazard easement" while the latter is a type of "nuisance easement" but in practice both are called avigation easements. The two types are not typically combined in one legal document, although they may be.

Airports rarely take the trouble to acquire nuisance avigation easements by initiating condemnation proceedings. The nuisance easements are sometimes imposed on new developments near an airport, but only if the airport owner (a city or county) also has jurisdiction over the land surrounding the airport. An airport may also require a nuisance avigation easement as a condition for installing insulation against noise in homes and schools. When sued for nuisance by neighboring landowners, airports assert that they have a *prescriptive* avigation easement over the plaintiff's land and therefore are not liable for any nuisance due to aircraft noise, fumes, or vibration. In theory a prescriptive avigation easement is acquired by simply flying over the property for a number of years (the number set by state law to perfect a claim for adverse possession). However, only California courts have come close to recognizing avigation easements acquired by prescription (see link below to discussion of prescriptive avigation easements).

If the provisions of the easement are written broadly, the easement could preclude the property owner from successfully suing the airport for maintaining a nuisance (such as noise, air pollution, or airport lighting). For example, the easement might contain language that grants the airport the right to create noise, dust, vibration, fumes, etc. from aircraft presently using the airport as well as any *future* aircraft at the airport. If at the time the easement was granted the airport was used only by small, propeller-driven planes, but now a variety of helicopters fly in and out of the airport, the property owner would have difficulty arguing that the airport had exceeded its rights under the easement.

Avigation easements are recorded in the county recorder's office and show up in a title search. Like most easements, they are binding on any future owners of the property. See the following:

- California Public Utilities Code section 21652 (statutory authority for avigation easements)
- Sample avigation easements: California sample, FAA model
- Prescriptive Avigation Easements

- "Avigation Easements, and Lawsuits for Inverse Condemnation and for Nuisance" by Ronald D. Steinbach, Attorney at Law (California)

[Revised Nov. 13, 2004]

SFGATE http://www.sfgate.com/news/article/Judge-blocks-Bruce-Willis-airstrip-construction-11178232.php

Judge blocks construction of airstrip by actor Bruce Willis

Updated 9:03 am, Sunday, May 28, 2017

FILE - In this Wednesday, July 24, 2013, file photo, Actor Bruce Willis poses during a photo call for his movie "R.E.D.2" in Munich, southern Germany. A judge has blocked Willis' plan to build a private airstrip in central Idaho. 5th District Judge Robert Elgee ruled on May 19, 2017, that Camas County commissioners violated state law when drafting an ordinance allowing individuals to obtain conditional-use permits to build a private airport in agricultural-zoned county lands.

HAILEY, Idaho (AP) — A judge has blocked actor **Bruce Willis**' plan to build a private airstrip in central Idaho.

The **Idaho Mountain Express** (**http://bit.ly/2r6T4Gr**) reports that 5th District Judge **Robert Elgee** ruled that Camas County commissioners violated state law when drafting an ordinance allowing individuals to obtain conditional-use permits to build a private airport in agricultural-zoned county lands.

Willis began construction on an 8,500-foot dirt runway last year. However, the project was halted in September after Planning and Zoning Administrator **Dwight Butlin** discovered that the airport site was on land zoned for agricultural use.

Work was allowed to resume when the county tweaked the ordinance, which sparked a lawsuit filed by Camas County residents.

Elgee said in his May 19 ruling that Camas County showed a "complete disregard" for property rights and the well-being of the neighborhood.

Camas County Attorney **Matt Pember** said the county was disappointed with the judge's decision.

Information from: Idaho Mountain Express, **http://www.mtexpress.com**

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From:	Tittel/Caloyannidis
To:	McDowell, John; Ayers, Dana; Frost, Melissa
Subject:	PALMAZ UP14-00261
Date:	Thursday, June 08, 2017 10:36:19 AM
Attachments:	PALMAZ - ALUC COMMENT.doc PALMAZ - ENFORCEMENT.doc

---

Dear Staff Members,

I would appreciate you entering the attached comments into the record and distributing them to the Planning and Airport Land Use Commissioners.

Thank you,
George Caloyannidis

George Caloyannidis
2202 Diamond Mountain Road
Calistoga, CA 94515 June 8, 2017

TO: The Napa County Planning Commission and Airport Land Use Commission (ALUC)
John McDowell: (john.mcdowell@countyofnapa.org)
Melissa Frost: (melissa.frost@countyofnapa.org)
Dana Ayers: (dana.ayers@countyofnapa.org)

RE: Palmaz Use Permit Application P14-00261

Dear Commissioners:

In anticipation of the future yet to be scheduled ALUC hearing, I herewith address the particular issues within the related Napa County voluminous record which lie within the domain of the ALUC's authority to render its decision for approval or denial of this application.

According to the Napa County Airport Land Use Planning Handbook, 2002: ***The Commission will evaluate the adequacy of the facility to the extent that it affects surrounding land use*** (not amended in 2012).

The factors affecting compatibility are:

- Noise
- Safety; Minimizing Risks
- Airspace Protection; Restrictions on Hazards to Flight
- Overflight; Impacts on the Community

A) NOISE PERCEPTION / ANNOYANCE

ACOUSTIC NOISE

The EIR engineering noise impact study submitted by the applicant is based on generic noise contours of the Bell 429 helicopter. These noise contours do not account for the noise amplification due to the particular configuration of the Hagen Road canyon bounded by Mount George.
Several residents testified about the highly intrusive loudness of helicopter overflights in that canyon.
I have submitted in the record (available for your review) a video and sound recording of the applicant's helicopter actual takeoff in a canyon terrain very similar to that of Hagen Road at his ranch in Genesee Valley, Plumas County. The Commissioners can see and hear the tremendous

overflight noise impact this helicopter has in a canyon setting. This is the *actual*, not the *engineer- projected* noise impact.

Ms. Elisa Adler, a resident of Genesee Valley living 2 miles as the bird flies from the Palmaz heliport has submitted a letter into the record describing the devastating effect the Palmaz flights are having on her family's life.

NON-ACOUSTIC NOISE FACTORS

I have entered into the record the following noise studies relating to alternative effects of helicopter generated noise:

- ICBEN 9th International Congress on Helicopter Noise as a Public Health Problem, 2008 Foxwoods CT
- DEFRA Department for Environment, Food and Rural Affairs, Research Into the Improvement of the Management of Helicopter Noise, 2008 Scottish Government
- Aviation Week, London's Heliport Strives to be Neighborly, 2014

Both the ICBEN and DEFRA research studies agree in summary that:

- In terms of acoustical factors, the *impulsive nature* of helicopters or *blade slap* are not accounted for in sound evaluation studies and that it ought to be weighted from 10 to 15 dB (ICBEN).
- Accordingly, the Mugridge et al. (2000) referenced study at RAF Shawbury indicated *"no clear correlation between traditional acoustic parameters and soundscape perception and acceptance*" of helicopter generated noise.
- Similarly, the Leverton & Pike referenced study (2007) concludes that *"specific properties of the helicopter sound are not accounted for by conventional rating procedures and it is these properties that are among the major sources of annoyance for the community".*
- That the effect of sound frequencies and the impulsive nature of helicopter sound are not accounted for has also been acknowledged by the FAA in its 2004 report to the U.S. Congress, though it continues to use the DNL sound level.

Most important, the research studies have identified *non-acoustic* factors also known as *virtual noise* as contributing to disturbance and annoyance in communities. In fact, they have been acknowledged as being "*of equal or greater importance*". ICBEN identifies the following contributing specific factors:

- Negative reaction to leisure flying
- Poor community / airfield relations
- Fear of crashes
- Nobody acts on complaints

- Aircraft are flying too low
- Intrusion, distress, startle, disturbance, locus of control

Similar findings are cited in the California Airport Land Use Planning Handbook, 2002 (not amended in 2012):

- **Chapter 7-12:** *Attitudes regarding the importance of the activity associated with the noise.*
- **Chapter 9-11:** *The potential personal or societal benefits to be gained from the activity involved.*

The Palmaz noise report and EIR have failed to account for the importance of these generally accepted non-acoustic factors in evaluating the effects of helicopter generated noise.

WIDE OPPOSITION TO HELICOPTER NOISE

The city of London with a population of 13 million has only one public use heliport facility. The reason as reported in *Aviation Week* is: *"There have been numerous attempts to build additional public-use heliports in London but all have failed due in large measure to a wave of opposition from residents over noise concerns"*.

Several communities throughout the U.S. have set up agencies to field the mounting helicopter complaints and investigate them. Some are at Long Island North Fork, the Hamptons, the Hollywood Hills, Torrance CA and others. Sen. Diane Feinstein and Rep. Adam Schiff have introduced Bills S.208 and HB.456 demanding Congressional helicopter-specific noise regulation, as has Sen. Chuck Schumer seeking restrictive legislation over Long Island helicopter overflights.

This is one more proof that given identical noise contours, helicopter noise is much more intrusive than that of ordinary aircraft.

As corroborated by the studies cited above, while there is public acceptance of helicopter noise for flights which *provide a public benefit* (fire fighting, criminal pursuit, hospital and rescue), the Palmaz heliport, *solely for the applicant's convenience and recreation* (in addition to the applicant's poor community relations) fails to garner even minimal neighborhood acceptance.

COMMENT - PALMAZ NOISE IMPACTS

The Airport Land Use and Planning Commission must weigh the noise related negative impacts (both acoustic and virtual) on the surrounding community against the personal / recreational use of a helicopter when there is a public airport within a 20-minute drive from the applicant's property in determining whether this heliport is a neighborhood-compatible land use at this location or whether its denial places an overriding undue burden on the applicant.

B) SAFETY / AIRSPACE PROTECTION / RISK PERCEPTION

According to the Report *"Hellish Copters, Why Are Helicopters Always Crashing"* compiled by Christopher Beam with input from the Crouse Law Offices, the Flight Safety Foundation, Helicopter Association International and the National Transportation Safety Board: *"Helicopters crash about 35% more often per hour in the air than the average aircraft".*

Similarly, according to the California Airport Land Use Handbook (not amended in 2012):

- **Chapter 8-25:** *37% of helicopter accidents are taking place within 1 mile of a landing site whether be at an airport, a heliport or other location.*
- **Chapter 8-6 (Bar-graph):** *55% of all aircraft fatal accidents occur within 2 miles of an airport and 72% within 4 miles of an airport.*
- **Chapter 9-16:** *Greater risks are also tolerated when more benefit is to be gained from the activity.*

BIRD STRIKES

Chapter 9-56: *Any land uses which can attract birds should be avoided but those which are artificial attractors are particularly inappropriate because they generally need not be located near airports.* The identified uses are:

- *Golf courses with water hazards* (Napa Valley Country Club golf course)
- *Wetlands* (Wetlands, streams and 7 ponds are in the immediate vicinity)
- *Landscaping, particularly water features* (Napa Valley Country Club)
- *Wildlife refuges* (the adjacent Dunlap/Galbraith Napa Valley Land Trust Conservation Easement)
- *Agriculture, especially cereal grains* (Grapes/vineyards are known bird attractants)

All of the above are already present in the immediate vicinity of the proposed heliport but since they *pre-date* the proposed heliport they are they cannot be mitigated.

The Dunlap/Galbraith Napa Valley Land Trust Conservation Easement reported the existence of 61 different bird species including - and neighbors have observed - the presence of particularly dangerous Red Tale Hawks, Blue Herons, Ospreys, Turkey Vultures, Wood Ducks, Canadian Geese, Golden Eagles and Wild Turkeys.

ASSOCIATED PRESS 12/2015: DANGEROUS HELICOPTER-BIRD STRIKES INCREASE

"There have been 204 reported helicopter bird strikes in 2013, a 68% increase over 2009 and a 700% increase over the early 2000s. Large bird populations are on the rise in North America. The Canada Goose population in the U.S. and Canada increased from about 500,000 in 1980 to 3.8

million in 2013 and the North American Snow Goose population increased from about 2.1 million to 6.6 million (U.S. Fish and Wildlife Service). Other large-bird species with rising populations include Bald Eagles, Wild Turkeys, Turkey Vultures, American White Pelicans, Double-Crested Cormorants, Sandhill Cranes, Blue Herons and Ospreys.
Fixed wing aircraft serious bird strikes have been dropping, in part because of efforts to keep airports and their surroundings free of large birds (clearly not possible here). ***The reverse is true of helicopters which fly at lower altitudes around lots of birds.***
"'The data we have is showing we have been very, very lucky, and it's only a matter of time before we start seeing fatalities," said Jorge Castillo, regulations and policy manager for FAA's rotorcraft directorate'".

COMMENT - PALMAZ SAFETY AND AIRSPACE PROTECTION

The Airport Land Use and Planning Commission must weigh the overall increased risk potential and the safety of the surrounding community which is developed with hundreds of homes on small parcels and surrounded by mountainous, fire prone chaparral against the personal / recreational use of a helicopter when there is a public airport within a 20-minute drive from the applicant's property in determining whether this heliport is a neighborhood-compatible land use at this location or whether its denial would place an overriding undue burden on the applicant.

C) ENFORCEMENT

Among the factors cited in community non-acceptance in the currently available research studies (ICBEN / DEFRA), ***"Nobody acts on complaints and poor community / airfield relations"*** plays a vital role.

In my extensive analysis: "ENFORCEMENT": (5/11/2017) in the record, I have shown that the conditions of this use permit are ***unenforceable*** because:

- of the specific location of the heliport, hidden from common view
- compliance is entirely complaint driven - complaints which are impossible to document
- of contradictory enforcement jurisdictions (FAA / County) as to what constitutes a violation
- compliance relies solely on records maintained by the applicant who has a dismal use permit compliance record
- of the lack of a specific administrative infrastructure to field and act on complaints
- of the lack of an administrative infrastructure to analyze the applicant's records

Because "enforcement" relies solely on records maintained by the applicant, the applicant's prior record of compliance with use permit conditions is material. Such is egregious and well documented in the County of Napa.

As the record shows, such compliance with building codes also extends to the conversion of an agricultural building to a hanger in Plumas County without a prior building permit.

COMMENT - PALMAZ ENFORCEMENT / COMMUNITY RELATIONS

The Airport Land Use and Planning Commission must recognize that this particular use permit is not solely a land use issue because it is inextricably conditioned to and contingent upon the applicant's behavior in the air. A use permit which runs with the land may not be contingent upon conditions in an area over which the FAA but not the County has no jurisdiction. More important, the conditions imposed by the County in the air do not violate FAA rules, nor are the applicant's voluntary self monitoring and reporting mechanisms mandated by it.

The impossibility of monitoring and enforcing adherence to the imposed conditions - both on land and in the air - on which the public relies is fundamental in determining whether this specific heliport is a neighborhood-compatible land use.

At the same time the County may not offer enforcement assurances to the public which knowingly it is unable to fulfill.

D) AIRSPACE PROTECTION / IMPACTS ON FUTURE USES

The FAA characterizes certain land uses as incompatible to an airport. Among them:

- Residential development
- Bird attractants such as water features (wetlands, ponds, streams, golf courses, conservation easements)
- Bird attractant agricultural ones such as the raising of grains (vineyards are known bird attractants)

The Federal Airport and Airway Development Act FAA 14CF Part 150 states:

All non-mitigation measures applied to potential new incompatible development must clearly be preventive and serve the goal of preventing the introduction of additional incompatible land use.

FAA Airport Compliance Order 5190.6B states:

The FAA expects an airport sponsor to take appropriate actions to the extent reasonably possible to minimize incompatible land. Quite often, airport sponsors have a voice in the affairs of the community where an incompatible development is located or proposed. The sponsor should make an effort to ensure proper zoning or other land use controls are in place.

Due to their classification as Incompatible uses in the vicinity of a heliport, future bird attractant agricultural uses, including vineyards and irrigation ponds will be discouraged if not prohibited - in the least requiring ALUC review. Similarly per FAA guidelines, residences which are identified as incompatible land uses, will require new Building Code regulations for sound proofing of new or existing ones seeking additions or remodeling.

E) OVERLIGHTS / PROPERTY VALUES

Because the FAA considers a home's proximity to an airport a negative condition, it recommends and the State of California has adopted (AB. 2776) that it be included in a Real Estate Transfer Disclosure Statement.

The fact that home property values in the Napa valley are high as compared to other communities in California, is no proof that such disclosure does not negatively affect their value.

I have submitted in the record the study by Randall Bell, MIA: *The Impact of Airport Noise on Residential Real Estate*. This study considers the related findings in 27 other ones and concludes that the proximity of an airport has a negative effect on residential property values ranging from 2.5% to as high as 29% depending on distance from an airport and on "*low to high-class*" type housing, the latter being impacted the most.

While its degree fluctuates, it is an established fact that the proximity of an airport has a negative effect on residential property values.

COMMENT - PALMAZ FUTURE USES / PROPERT VALUES

The Airport Land Use and Planning Commission must weigh the negative impacts on residential property values and on future land uses including agriculture and residential development or remodeling - at the least subjecting them to ALUC review - in the vicinity of the heliport against the personal use of such when there is a public airport within a 20-minute drive and whether a denial constitutes an overriding undue burden on the applicant in determining whether this heliport is a neighborhood-compatible land use.

F) COMMUNITY ATTITUDES

Based on public hearings attendance and testimony, the residents of the Hagen Road community are distinctly aware of the variety of negative impacts the proximity of a heliport will have on them and their properties.

As the approximately 100 attendees at *each* of the EIR scoping workshop, the first Planning Commission and the subsequent joint ALUC hearings, the immediate community is solidly opposed at the prospect of a nearby heliport.

The immediate vicinity addresses provided with the opportunity to submit petitions were:

- 3385 - 3960 Hagen Road
- 1212 - 2482 Third Avenue
- 1001 - 1289 Olive Hill Lane
- 1004 - 1176 Mt. George Avenue

73.9% of them submitted petitions in opposition to the proposed heliport. And 100% of those who cared to respond.

At the same time, there are 189 petitions in opposition within a half-mile radius of the proposed heliport (It is unknown how many have been aware of the application in order to submit a petition).

FAILURE TO CONSIDER THE WELL BEING OF THE NEIGHBORHOOD

On May 19, 2017, and in response to a lawsuit filed by residents in Camas County, Idaho, 5th District Judge Robert Elgee ruled that the Camas County commissioners violated state law when drafting an ordinance allowing individuals to obtain conditional use permits to build a private airport in agricultural-zoned county lands.

In his ruling, Judge Elgee said that Camas County showed a *"complete disregard for property rights and the well being of the neighborhood".*

COMMENT - PALMAZ / WELL BEING OF THE COMMUNITY

The well being of a community is a material consideration in determining whether a heliport at this site is a neighborhood-compatible land use.

G) POTENTIAL COMMUNITY BENEFITS

The applicant has argued that a heliport on Mount George would provide a landing site for emergency helicopters. Given the topography of the site, this is a poor argument. There are dozens of unimproved acres atop Mount George where a helicopter may land easily and safely including the unimproved site of the proposed heliport. The same applies to numerous sites at the Palmaz vineyard itself as well as at the neighboring Dunlap/Galbraith conservation easement, the Napa Valley Country Club, other vineyards, a horse ranch and others.

COMMENT - PALMAZ / COMMUNITY BENEFITS

As the research cited above has shown, had the community perceived this heliport as an element of increased safety, it would have embraced it rather than continue to oppose it.

H) GENERAL COMMENT - PALMAZ HELIPORT

It is beyond dispute that this heliport and its operation will diminish the overall quality of life of the Hagen Road community. This heliport:

- **(A) will compromise the peaceful enjoyment of properties through noise**
- **(B) will contribute to its anxiety, increase risk and compromise its safety**
- **(C) will have operational conditions which are unenforceable**
- **(D) will restrict currently accepted agricultural land uses and building codes**
- **(E) will negatively impact surrounding home values**

At the same time, it will provide no public benefit which would justify such negative impacts.

The Airport Land Use and Planning Commission must make a reasoned and justifying argument why such negative impacts on the community (which are not "less than significant") are outweighed by the approval of a heliport for private and recreational uses, only a 20-minute drive from a public airport or why its denial would constitute an overriding undue burden on the applicant in determining whether this heliport is a neighborhood-compatible land use.

Enclosure: "ENFORCEMENT" 5/11/2017 by this author

NOTE: All other referenced studies, reports and documents are available in the public record

George Caloyannidis
2202 Diamond Mountain Road
Calistoga, CA 94515 May 11, 2017

Dana Ayers
Napa County Planning
dana.ayers@countyofnapa.org

CC: Napa County Planning Commissioners

RE : Palmaz Private Heliport Application UP # P14-000261-UP

ENFORCEMENT

Following are comments in response to issues and questions regarding enforcement of the above Use-Permit raised by several members of the public and Planning Commissioners during the hearing of March 1st, 2017.

Since the County has not assumed the responsibility of monitoring the Amalia Palmaz Living Trust's (THE TRUST) adherence to the terms of this Use-Permit, it must be assumed that such adherence is solely complaint driven.

1) DOCUMENTATION AND COMPLAINT FILING PROCESS:

The filing of any complaint rising to the level of an investigation must include the following documentation:

1.1) ON THE GROUND VIOLATIONS:

Neighbors must document that the helicopter has exceeded the permitted number of landings and takeoffs.

Since both the original and alternative helipad locations are hidden from public view let alone open to public access for purposes of identification, it is impossible for any outside persons to document any landing or takeoff and distinguish it from other flying helicopters in the area.

If this condition of the Use-Permit cannot be documented by an independent party and if the County fails to assume that responsibility through a specific mechanism, such a complaint is impossible to file, rendering the possibility of an investigation moot.

1.2) IN THE AIR VIOLATIONS:

Adherence to the no-fly zone restrictions is equally impossible to document by an outside person on the ground. For a complaint to be credible enough to trigger an investigation, such person must document:

- The time of the incident.
- The exact location of the helicopter in relation to the no-fly zone.
- The identity of the helicopter.

*Documenting the time of the incident places an undue burden on the community because it places it in constant alert having to monitor **any and all** helicopter over-flights before distinguishing permitted from violating ones.*

It is obvious that it is impossible for any person on the ground to ascertain let alone document the exact location of a helicopter in relation to a no-fly zone. It is equally impossible for such person on the ground to photograph and identify the helicopter in the air, for an over flight which lasts only a few seconds.

In view of the above, it is practically impossible for an independent person on the ground to document a no-fly zone violation.

If this condition of the Use-Permit cannot be documented by an independent party and if the County fails to assume that responsibility through a credible mechanism, such a complaint is impossible to file, rendering an investigation and follow up enforcement impossible.

2) COMPLAINT FIELDING AGENCIES:

2.1) NAPA COUNTY (ON THE GROUND):

Since the County has jurisdiction of activities on the ground, and notwithstanding **(1.1),** it is presumably the only one to field a complaint.

The County has not put forward a procedure or the administrative infrastructure charged with the responsibility to investigate, respond and act on such a complaint, nor has it put forward how it will respond to THE TRUST if its investigation were to substantiate such complaint.

2.2) FEDERAL AVIATION ADMINISTRATION (IN THE AIR):

Since the County lacks jurisdiction and the means to enforce conditions *itself has imposed* in the air, and notwithstanding **(1.2)**, it must be presumed that any such complaint must be filed with the FAA. However, neither the number of landings and take-offs nor the no-fly zone restrictions are ones mandated by the FAA.

Since the Use-Permit restrictions are not mandated by the FAA, it is obvious that the burden of investigating in the air Use-Permit violations falls entirely on the County.

The County has not put forward a procedure or the administrative infrastructure charged with the responsibility to effectively document, investigate and enforce in the air Use-Permit violations.

NOTE: Municipalities such as Torrance, CA, the Hamptons NY and others around the world, have created special departments to field, investigate, respond and take action to helicopter over flight complaints.

3) RELIANCE ON DATA SOLELY CONTROLED BY THE TRUST:

According to the application, THE TRUST: "Agrees to create a flight log summary at the conclusion of each flight that includes the time of each flight, number of landings and flight duration. That data would be provided to the County on a quarterly basis".

THE TRUST also agrees to: "A surveillance system consisting of GPS position tracking and in-cockpit video/voice recording which would record the arrival and departure of flights to and from the heliport".

And: "If the County receives a no-fly zone intrusion complaint, the County would use the flight log data to determine if the Palmaz helicopter was operational. If it was not operational, no further action would be taken. If it was operational, the applicant would provide to the County the GPS tracking and recording data discussed above to demonstrate compliance with the use permit".

Any Use-Permit the enforcement of which relies solely on data provided by any applicant with no ability by the County to independently verify the accuracy of such data is not a complete and credible Use-Permit. This is especially troubling in this application as no member of the public under a "complaint driven system" has the ability to adequately document violations which would trigger an investigation.

3.1) PILOT'S LICENSE:

Mr. Christian Palmaz (*not the actual applicant*) testified at the hearing that if he were not to abide by the County imposed Use-Permit conditions he would lose his pilot license. The implication is that the FAA is the enforcement authority over the helicopter pilot's adherence to these in the air conditions.

This is incorrect. Since such conditions are not required by the FAA for private use helicopters, violating them would not constitute grounds for a pilot's license revocation by the FAA.

3.2) LOG SUMMARY:

The Use-Permit condition by which THE TRUST is required to maintain a flight log summary is completely under the control of THE TRUST the completeness or accuracy of which are not independently verifiable. Further, the County has failed to put forward a mechanism demonstrating that it has the expertise and means with which it can analyze the data submitted to it. If the County plans to engage the services of an outside agency to do so, such agency must be identified and the projected costs involved must be made part of the record.

3.3) GPS TRACKING:

There are a number of GPS tracking systems on the market.

Flight Data Recorders (FDR, so called "black box") are only mandated for commercial aircraft. Others, less expensive ones only record the location of an aircraft with varying degrees of accuracy. None of them are required for helicopters by the FAA.

FDRs cannot be disconnected by a pilot and their data can only be analyzed at locations with the sophisticated equipment to perform such analyses. We do not believe THE TRUST contemplates the installation of an FDR - a device of substantial weight - nor that it would be willing to fly the helicopter to designated locations for data analyses.

It is more likely that the contemplated device is a much less sophisticated portable GPS location recorder. However such recorders may be connected and disconnected at the discretion of the pilot. Disconnecting such a device does not violate any FAA requirement. As such, data recorded on such a device are not independently verifiable as being comprehensive.

Further, the County has failed to put forward a mechanism demonstrating its ability to analyze the data provided it. If the County plans to engage the services of an outside agency to do so, such agency must be identified and the projected costs involved must be made part of the record.

In addition, the County has not put forward a monitoring system which ensures that such GPS recording device is connected at all times.

3.4) NO-FLY ZONE INTRUSION:

- THE TRUST proposes that the County investigate such intrusion following a complaint. As discussed **(1)***,* such complaint is only theoretic and in pracice impossible to file with credible supporting documentation.
- The County would investigate an intrusion only if at the time of the alleged intrusion, the helicopter was operational. This again relies solely on records maintained by THE TRUST which are not independently verifiable.
- If the helicopter was found to have been operational, the GPS tracking and recording data would be analyzed by the County. Such data are not independently verifiable for completeness, neither has the County put forward a mechanism to demonstrate its ability to analyze them.
- While the County would take no action if the helicopter were to have been found not operational, it fails to identify what action it would take if it were to have been found operational.
- The County has failed to put forward the procedure it would employ in verifying the validity of the complaint (data analysis etc) and what action it would take if it found the complaint to be valid.

- At the TRUST'S discretion, the no-fly zone may be violated depending on the TRUST'S sole assessment on whether such intrusion is necessary due to safety reasons. Again, it is impossible to independently verify whether the TRUST'S assessment was valid and necessary at the time or

whether it was not invoked as an excuse to justify ***any*** no-fly zone violation it engaged in for other reasons.

The entire body of THE TRUST'S "Voluntary Enforcement Tracking" (EIR 2.1) is completely under its sole control and not independently verifiable. Neither failure to maintain any of them constitutes FAA enforceable violations.

3.5) NON-COMMERCIAL USES:

The original Use-Permit Application was submitted by Palmaz Family *Vineyards*. Subsequently, the word "Vineyards" was replaced with "Residence". One must assume this change was precipitated when THE TRUST became aware that landings at wineries for its intended use is prohibited. In addition, *commercial uses* in the Agricultural Watershed are prohibited in Napa County. However, THE TRUST'S true intent is questionable in view of the following:

- The pilot's license issued by the FAA is in the name of "*Christian Palmaz, President of Palmaz Vineyards",* the President of a commercial entity.
- The Bell 429 helicopter the TRUST is seeking to land on its residential property is owned and licensed under the name of "*Cedar Knolls Vineyards Inc, DBA Palmaz Vineyards"* a Delaware corporation and a commercial enterprise.
- The Amalia B. Palmaz Living Trust itself is registered in San Antonio Texas.
- Said helicopter will be primarily used for travel to and from the *Genesee Valley Ranch LLC* (Limited Liability Company) in Plumas County, CA , to manage a commercial cattle ranch with adjacent home.
- The two parcels (primary and alternative) for which the Use-Permit is being sought, are both immediately adjacent to the Palmaz Vineyard and Winery.

Only information regarding the manner in which these various entities report the Bell helicopter expenses in their respective tax returns will provide credible information as to whether they have been commercial or private.

In view of the fact that all entities for which this Use-Permit THE TRUST has applied for are commercial entities in addition to the proximity of the proposed heliport sites to a winery, the question arises whether anybody will have the ability to monitor compliance to non-commercial activities.
Since enforcement is proposed to be complaint driven, it is practically impossible for any member of the public to compile comprehensive evidence of commercial uses at either sites to trigger a complaint.

3.6) TRUSTEES RESIDENCY AND ABILITY TO MANAGE USE PERMIT CONDITIONS

THE TRUST has not been made public. Since the County relies on its Trustees for the adherence to the Use-Permit conditions it is imperative that the primary residencies be made public. If such residencies are in another State, they would be required to be absent from the Hagen Road home for more than 50% of the time which cannot assure their ability to manage the Use-Permit conditions.

THE TRUST and the legal primary residences of its Trustees must be made public. Even so, subsequent changes to THE TRUST will not require County approval.

4) VOLUNTARY ENFORCEMENT TRACKING:

The entire Section 2.1 of the EIR: "Applicant's Voluntary Enforcement Tracking" is problematic in its ambiguous language:

If the proposed tracking program is a mandatory condition of the Use-Permit, it may not be described as "voluntary". Describing it as "voluntary" merely confirms that it is not a FAA requirement and as such, THE TRUST may opt out of it at any time.

5) THE TRUST'S CREDIBILITY:

Assuming that the Enforcement Tracking is mandatory rather than voluntary, and as is already in the public record inserted by myself and others, THE TRUST has engaged in some of the most egregious land use violations in the past exhibiting patent disregard for the law.

Placing adherence to the terms of the Use-Permit *entirely* in the hands of THE TRUST with a complete lack of an independent verification mechanism is not credible for any Use-Permit but particularly given THE TRUST'S past Use-Permit noncompliance record.

CONCLUSION:

<u>USE-PERMIT COMPLIANCE IS UNENFORCEABLE</u>

I reviewing this application, the County has failed to insure the public that by granting this Use-Permit:

- **Its "complaint driven" enforcement mechanism is realistic. It is obviously based on theoretic but unrealistic assumptions; therefore nonexistent.**
- **It has the ability to independently verify THE TRUST-provided voluntary compliance data.**
- **It has put in place the administrative infrastructure to field, investigate and act on complaints.**
- **It has put in place specific procedures in the way it monitors, analyzes and verifies data provided by THE TRUST or by a complainant.**
- **It has put in place specific actions when THE TRUST is found not to adhere to the terms of the Use-Permit.**
- **It has properly accounted for the costs of the enforcement administration of this Use-Permit.**

The enforcement mechanism is an essential part of a Use-Permit. This is what is implied by the word "permit".

This particular Use-Permit is unenforceable unless the County is prepared to employ complex monitoring, analyses and action procedures along with the necessary administrative infrastructure to field and analyze flight data and its associated costs, all of which it must specify in the record, and subject to public comment.

The County may not grant a Use-Permit when fully aware that in practice non-compliance to its conditions is impossible to monitor, impossible to document and that in its entirety is impossible to enforce.

March 12, 2017

Dana Ayers

Napa County Planning

1195 Third Street Napa, CA 94559

Dana.Ayers@countyofnapa.org

RE: Palmaz Residence Private Heliport Application 4031 Hagen Road, Napa, CA 94558 (APN 033-110-080) UP# P14-000261-UP

Dana Ayers,

My name is Steve Chilton and I am a resident of Napa County. I am a retired Senior U.S. Fish and Wildlife Service Biologist, a former Fire Crew Boss with the US Forest Service (with many rides on helicopters) and a US Air Force Veteran. I became aware of the Palmaz application approximately a year ago after other county residents voiced their concerns regarding noise, incompatibility with the surrounding area and the risk to public safety. Beyond their rightful concerns, my opinion is that the County of Napa cannot show a public benefit and cannot show that the use permit would not be detrimental to the neighborhood character and environment.

The contention that denying a personal use heliport poses a disproportional load on the property owner cannot be upheld. No property owner has a right to a heliport. The constant fear of the County of a takings challenge does not exist in this application. The County is not obligated to approve this application. There is no justification for its approval. Napa County does not need "Vanity Heliports" in addition to the many "Vanity Wineries".

Regarding the noise evaluation conducted by Mead and Hunt, no direct test measurements were taken of an EC 130 B4 during approach, landing and takeoff from the project site. The noise contours developed for the application are common approximations developed from a model and cannot represent topographic variations of the site. The County does not have the proper information to make a valid judgement of the noise impacts. The applicant testified that he has been flying his low noise helicopter to the proposed site weekly (apparently without landing?). I'm not sure why he would do this to generate data, since the process of landing is the loudest portion of a flight. Additionally, the term "low noise helicopter" is very misleading. A less noise helicopter would be more accurate since all civilian helicopters are noisy, especially during takeoff and landing.

I understand County staff rely on contractors such as Mead and Hunt for their information and hypothetically there is a separation between the contractor and the property owner since the property owner is paying the County to pay the contactor. Unfortunately consultant corporations engaged in business with Napa County and other counties have a vested interest in having their projects approved. They may steadfastly deny this, but it is a reality. I believe the County should consult other counties, such as Los Angeles County that have full time staff assigned to noise issues prior to certifying the EIR.

Even though the contractor used a model incorporating the proposed primary approach and departure path, there is no requirement that the pilot utilize that path. FAA regulations, which trump County regulations, leave it up to the pilot to judge on any given day how and where to make an approach or a departure. He can come and go from the south, the north, the east or the west depending upon his judgement. This is a proper amount of latitude for a helipad located in an area devoid of residences or at an uncontrolled airport to provide for the safety of the pilot and passengers. This is not either of these (that is why there are airports).

During the March 1, 2017 public hearing, a number of Napa residents commented on County enforcement of permitted and unpermitted activities. Of particular interest to me was the situation where a property owner was using an unpermitted heliport and it became incumbent upon the neighbors to document the continuing violation with little response from the County. Based upon the applicants' testimony, digital logs from his onboard computer would be sent to the County to verify compliance with the various mitigations and permit conditions. I doubt the planning department has a staff member qualified to decipher these logs and the staff time or funds to train one. Monitoring for compliance will fall on the shoulders of neighbors who are also not trained and response will be at the discretion of the County. Not a comforting prospect.

Based upon these issues and the multiple other concerns expressed by other residents, I respectfully request that the County not certify the draft EIR.

Sincerely,

Steve Chilton

PO Box 2144

Yountville, CA 94599

3490 Twin Capes Ct
94558

OAKLAND CA 945

22 MAY 2017 PM 2

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MAY 25 2017
COUNTY OF NAPA
BOARD OF SUPERVISORS

Belia Ramos
Chair, County Board of Supervisors
1195 Third Street
Napa CA 94559

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Dear Chairperson Ramos

Please do NOT allow private helicopterports to be built in Napa County.

It is so not in compliance with our beautiful agrarian community. Thank you

Pauline Fitch

Dear Mr. Pedroza,

I am writing this letter to encourage you to vote against the helicopter pad in East Napa. This would set a dangerous precedent for the culture of our Valley.

Sincerely,
Sally Perkins

MAY 2017 PM 7 1
RECEIVED
MAY 24 2017
COUNTY OF NAPA
BOARD OF SUPERVISORS

Alfredo Pedroza
1195 3rd Street
Napa, CA.
94559

Dear Belia,
Please share this card with your other Board colleagues. I am opposed to the helipad request by Mr. Palmaz. I live close to Queen of the Valley and hear the helicopters as the land. I totally support the medic helicopter uses - but not in ou bucolic countryside.
Sincerely, Kathryn

Dear Mr Pedroza
Please do NOT allow private helicopter pads in Napa County.
Sincerely
Pauleen J Litz

Dear Supervisor Pedroza,
I speak for the majority of Napans; do not approve the heliport in East Napa. Such an approval will only result in more applicants, result in noise pollution, and create more evidence of the wealthy in this Valley's entitlement.
Richard Stone

Kathryn Winter
45 Valley Club Circle
Napa, CA 94558

Belia Ramos, Chair
Napa County Board of Supervis
1195 Third Street
Napa, CA 94559

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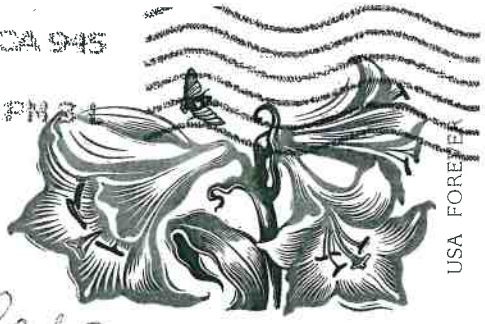
Napa CA 94558 22 MAY 2017 PM 3



Alfredo Pedroza
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Napa
CA 94559

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Napa, Ca. 94558
OAKLAND CA 945
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Alfredo Pedroza
1195 3rd St.
Napa Ca. 94559

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STEPHEN J. DONOVIEL
1177 Ragatz Lane
Napa, California 94558
(707) 255-5357

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JUN 13 2017
Napa County Planning, Building
& Environmental Services

June 12, 2017

David Morrison, Director Napa County PBES
1195 Third Street, Suite 210
Napa CA, 94559

Attention: Dana Ayers, Project Planner
John McDowell, PBES, ALUC Rep.

Re: Use Permit Application, Final EIR and ALUC re.
Proposed Palmaz Personal Use Heliport

Dear Ms. Ayers and J. McDowell:

I am writing to express my thoughts and concerns stemming from the May 17, 2017, hearing which ended in a tie and request that the current issues be added to my concerns noted in previous submittals that are attached.

Perusal of a document titled "Airport Land Use Commissions in California: (updated January 24, 2012) regarding implementation of Public Utilities Code sec. 21670 et. seq., describes a much broader composition of who appoints members to the county's ALUC compared to Napa County Resolution 75-51. It states, "The commission in every county is appointed as follows...

- 2 representing the county, appointed by board of supervisors.
- 2 representing cities in the county, appointed by a committee of all mayors, except that at least one representative must be appointed from among "any cities contiguous or adjacent to the qualifying airport"...
- 2 with expertise in aviation, appointed by a committee of the managers of all public airports within the county
- 1 representing the general public, appointed by the other six members of the commission."

Why does Napa County's ALUC differ? While it is not the case in the current situation, it seems to me that having the Planning Commission serve double duty leads to the possibility of "rubber stamping" a decision and it also prevents input from wider spheres of interest.

The next subject of the above document concerns the issues of Conflict of Interest and stresses the adoption of rules for temporary disqualification of ALUC members from participating in review or adoption of a proposal because of a conflict of interest. This issue is also stressed in the California Airport Land Use Planning Handbook (CALUPH) of October 2011 under the heading "Be wary of potential conflicts of interest or duty", with a recommendation that depending upon the Commissioner's other roles on certain commissions, boards, or advisory committees, it may be appropriate for the Commissioner to recuse him/herself from any related decision making. While I am not yet familiar with all of the Commissioner's circumstances, it is my opinion that one member clearly has a Conflict of Interest and should have recused from both votes.

The CALUPH notes the goal when establishing land use compatibility policies is not only to prevent the encroachment of incompatible land uses (which the large majority of people who used their three minutes testimony consider this project to be so), but to also encourage the development of land uses that are both appropriate *and* beneficial to the surrounding community" (which the near unanimous majority of people I've heard comment in and outside the chambers consider it not to be either. Having heliports or any other form of airport encroaching on already long-established rural neighborhoods simply cannot be considered good public policy.

While the CALUPH includes several pages discussing issues regarding noise, it begins the discussion stating, "Just as there are no absolute determinants of the noise level at which an individual person will be highly annoyed, there are no absolute scientific measures for establishing which land uses and noise exposures are or are not compatible with each other." It seems these guidelines recognize the high degree of subjectivity involved, noting that noise to one person or in this case, the many residents, may be music to another, i.e., Mr. Palmaz, and probably other pilots. As noted in my prior letters, while the EIR found the helicopter in question to be quieter and noise levels to be "less than significant," these findings were based on sound measurements and not on surveys of the persons being subjected to the sounds produced by the helicopter. Of those who testified almost all experienced it as annoying noise. Under "Methods of Limiting Aircraft Noise Impacts" the CALUPH lists four approaches, I think the only viable one in this case is headed "Preventative" viz., keep aircraft noise at the Napa County Airport (except of course in cases of public safety emergencies) and out of rural residential neighborhoods, AR and AWOS lands.

Finally, the claim by the applicants and members of their teams that residents' property values would not be diminished because they need not declare the heliport is not only immoral/unethical but ridiculed by the few realtors I consulted.

I urge the members of the ALUC, Napa County PBES and Board of Supervisors to deny the Palmaz's Use Permit Application #14-00261. If that does not occur, I think the request is a clear example of the type of project that should be referred for a vote of the electorate per Measures J and P.

Thank you for considering my input and, if there are questions, please call at 815-1316.

Respectfully,

Stephen J. Donoviel

cc: Board of Supervisors

STEPHEN J. DONOVIEL
1177 Ragatz Lane
Napa, California 94558
(707) 255-2357

May 8, 2017

David Morrison, Director Napa County PBES
1195 Third Street, Suite 210
Napa CA, 94559

Attention: Dana Ayers, Project Planner

Re: Use Permit Application and Final EIR for the
Proposed Palmaz Personal Use Heliport

Dear Ms. Ayers:

I am writing to express my thoughts and concerns for consideration at the Hearing May 17, 2017, about this project. I had reviewed the above referenced documents, including the alternative plan, prior to attending the Hearing on March 1, 2017, at which time attendees heard additional facts and information that I think give cause for greater concern and provide ample reason to deny the use permit for this project.

For example, we learned about the large heronry proximate to the Palmaz site that during Ascent's study of the biological analyses was either not observed or considered important enough to mention in their report. This I think calls into question the reliability/validity of their other findings of "non significance". Regardless, I think that most people in this day and age are aware, via TV, that helicopters are used to round-up deer, mustangs, elk and other mammals because of their negative impact on wild game. We also witnessed at the March 1, 2017, hearing, the underwhelming lack of support for this project compared to the scores of residents, groups, and city officials, who among other issues, complained about the disturbing impact of the noise factors. The weight of these numbers heavily tips the scales in the direction of denial.

While, Mr. Palmaz, who indicated that he is the president of the family winery on Hagen road, his support team and the few supporters who spoke, noted that his was among the quietest helicopters available, opponents queried, "quieter than what?" There can be no argument that this helicopter makes noise that is offensive to several people whether they are at home, on the golf course or in school. It is a well known fact that how individuals process sensory input, whether olfactory, auditory, tactile/pain, etc., and the impact on their cognition and emotion reactions, depends on many variables and cannot and should not be reduced to a number, regardless of the system used. I urge you to trust the residents when they tell you and the Commissioners/Supervisors that they are disturbed and distressed and should not be dismissed as speaking "false truths" as some might argue. Reports and studies concerning the negative impact on some students' concentration, studies etc., are in the materials and should be honored.

Also, the applicant informed the assemblage, that while the family business is a winery and the proposed site of this project is on that land, the helicopter was not to fly winery guests, but for private use only and served as a "productivity tool...it allows us to more efficiently manage our five family owned and operated businesses..." Since no questions were asked about these comments, the only

possible gain in efficiency I can see by having the helicopter at the proposed site would be the few minutes differential between driving to the Napa County Airport versus up the mountain road to the proposed site. To my thinking, this small savings in time for the driving leg of his commute to work is clearly not worth the misery imposed on innumerable families should this project be approved. (Recently, at the BOS retreat, we learned that at least two Supervisors have much greater driving commute times than that with which applicant is dealing.)

I find it disturbing that at the most recent hearing, one of the applicant's team stated to the effect, that regardless of the outcome, nothing will change. Does that mean he has been landing on the property, that he will continue to buzz the neighborhood or what? Also, residents concerns about a drop in property value having a heliport in the neighborhood, seem to have been lightly dismissed and rationalized by claiming 'you don't have to tell the potential buyer' which is similar in attitude/behavior that led to prior court action and penalty.

In summary, I obviously find no redeeming features in this project and urge denial of the use permit for Application CUP#P14-00261 in its entirety. If that does not occur, I think the request is a clear example of the type of project that should be referred for a vote of the electorate per Measures J and P.

Thank you for considering my input and, if there are questions, please call at 815-1316.

Respectfully,

Stephen J. Donoviel

Cc Planning Commissioners,.
Board of Supervisors

STEPHEN J. DONOVIEL
1177 Ragatz Lane
Napa, California 94558
(707) 255-2357

May 8, 2017

Ms. Jeri Gill, Chair,
Napa County Planning Commission
1195 Third Street, Suite 210
Napa CA. 94558

I have arranged for Mr. Gary Margadant, who has kindly agreed to read my concerns about the matter before the Commission re. the Palmaz application for a use permit to build a heliport on Ag Land. (Copy Attached) I also, respectfully ask that prior to any discussion and/or vote on this matter, each Commissioner declare any contact with the Applicant, his relatives or members of his team, as is already your custom, but also, that in the spirit of transparency and deference to the publics right to know, that each Commissioner's declaration include any fiduciary involvement with the applicant's or families and team members businesses.

Respectfully,

Stephen Donoviel

STEPHEN J. DONOVIEL
1177 Ragatz Lane
Napa, California 94558
(707) 255-2357

February 26, 2017

David Morrison, Director Napa County PBES
1195 Third Street, Suite 210
Napa CA, 94559

Attention: Dana Ayers, Project Planner

Re: Use Permit Application and Final EIR for the
Proposed Palmaz Personal Use Heliport

Dear Ms. Ayers:

Thank you for providing opportunity for comments concerning the above project in its original and alternative forms. I remain unalterably opposed to these proposals and urge PBES, the Planning Commissioners and members of the Board of Supervisors to reject them in their entirety.

I have never met or talked with Mr. Palmaz, but it seems evident from social media that he is passionate about his attraction to and interest in tending to and flying his helicopter and that he finds some difficulty or has a distaste for driving the few miles to the Napa County Airport and wishes to have this object "close to home" as it were. Notwithstanding the multiple references to CEQA, there appears to be no claim that this project has anything to due with his family's vineyard/winery operation or other business ventures except, perhaps, the reference to "...when Palmaz flew an operation, and also to identify if there were any passengers in the aircraft during the operation." (Para. 1, p. 2 of 3, 2/3/17, letter to Laura J. Anderson, Deputy County Counsel from Brian Russell and Amalia Palmaz). His passion seems much like those of others who are involved with such activities as sailing, restoring old vehicles, drag racing, golfing, collecting and target shooting various kinds of guns, etc., the only difference being, exercising his passion creates discomfort, worry, distress and possibly some situations of recurrence of PTSD-like effects for individuals/families/ schools in the area.

All of the CEQA-related studies of flora, fauna, noise levels, etc., reported in the DEIR/FEIR and related documents, while interesting, are somewhat irrelevant because advanced degrees are not necessary to witness the aversive effects of helicopters on big game, e.g., mustangs, elk, deer, coyotes, and other wildlife creatures. They have been seen by anyone who watches Public TV nature shows covering tagging and/or population control operations by fish and games departments or other agents.

Making determinations about noise pollution reported by neighbors in the area and the veracity of seriousness of deleterious affects on the level of discomfort, mood, affect and cognitive functioning of the adults and children who are being exposed to the noise/feel of helicopters in the affected neighborhoods can only be properly measured by assessing those individuals, not from readings from measuring devices tested at various distances however useful such instruments are from other projects. It is my opinion that the volumes of complaint letters that speak to noise pollution and other

concerns can be taken as face value "facts" because each person experiences sensory input in a different fashion, including its degree of averseness or pleasantness.

I think the response by Mr. Palmaz's attorney to the various neighbors' expressed concerns about the possible diminution of resale value and disclosure to buyer (letter dated September 23, 2016, to Ms. Ayers and signed by Brian Russell) was informative and interesting. In effect, Mr. Russell was making the point that they probably need not worry because the landowner(s) were likely not in the sphere of influence of applicable laws and criteria. While I accept that he is probably legally correct, I wonder, wouldn't human decency prompt disclosure since the potential buyer might be someone who would experience very severe reactions to the ongoing noise pollution?

It seems to me that this Use Permit Application is only indirectly related to CEQA and facts and figures concerning air quality and GHG emissions, aversive effects on wildlife and noise pollution as it applies to Mr. Palmaz's neighbors. Rather, it in essence, pits one man's passion to fly his helicopter and avoid driving to the airport against numerous neighbors who experience negative reactions to the sound/feel of his and other helicopters, neighbors, who nonetheless recognize the need for public safety helicopter missions and "gut it out" during those occasions for the public good. This project seems to be solely for his pleasure with no apparent public good related to it and, if approved, will have an on-going negative impact on many people in the neighborhood.

It is difficult to understand Mr. Palmaz's motivation to pursue this endeavor once he learned of the widespread negative effects on many of his adult and younger neighbors but I also recognize he has no obligation to explain. Similarly, his motivation and thinking about the following activities raises questions.

> "On average, Palmaz operates their helicopter (arrivals and departures) four times per week. For 75% of the trips leaving the Napa County Airport, Palmaz flies north directly over the Project location. Upon return, Palmaz again flies over the Project site. When Palmaz flies over the Project site they are typically at an altitude range of 500 feet above the ground, up to 2000 feet, depending on the weather, air traffic, and other factors....It is important to understand that Palmaz is currently flying in airspace above the Project site. This flight activity will continue whether the Project is approved or it is denied approval."

(Letter from Brian Russell to Dana Ayers dated September 23, 2016, p.1-2 under Existing Conditions).

To me, the decision in this matter is a no-brainer and I urge the Department, the Planning Commission and the Board of Supervisors to deny Application CUP#P14-00261 in its entirety.

Thank you for considering my input and, if there are questions, please call at 815-1316.

Respectfully,

Stephen J. Donoviel

Cc Planning Commissioners,.
Board of Supervisors

STEPHEN J. DONOVIEL
1177 Ragatz Lane
Napa, California 94558
(707) 255-2357

July 17, 2016

Diane Dillon, Supervisor District 3
Napa County Board of Supervisors
1195 Third Street
Napa, CA 94559

re: Palmaz Helipad

Dear Ms. Dillon and the other Members of the Board:

Laboring with misinformation that the above issue had been settled in favor of the numerous citizens of Napa who would suffer had it been approved, I did not pursue sending my own complaint. However, this past Friday evening I learned otherwise and that the Planning Director had said that none of the issues in the EIR would prohibit Mr. Palmaz's plans being approved. As anyone who has had a helicopter fly overhead, even at considerable distance, knows the noise alone would preclude wanting to be exposed to it on a regular basis, with the exception of the needs of CHP and other safety department and medical flight copters.

The request itself, which I think suggests a total lack of concern for others' discomfort and safety, amazes me since the only benefit is to satisfy Mr. Palmaz's love of flying and his seeming distain about driving the short distance to the Napa County Airport. I would suggest that the Board convene a meeting at a residence impacted by the proposal and allow Mr. Palmaz to fly his helicopter on the various flight patterns he proposes, thereby allowing the Board to directly experience what the neighborhood will be exposed to on a regular basis. This would permit an experiential and humanistic fact-finding basis to add to the existing database in making your ultimate decision.

Thank you for considering my suggestion.

Respectfully,

Stephen J. Donoviel

McDowell, John

From: Deborah Holley <deborah@holleyconsulting.com>
Sent: Monday, July 31, 2017 2:32 PM
To: mikebasayne@gmail.com; nbbrod@gmail.com; anne.cottrell@ucene.com; JeriGillPC@outlook.com; 'Terry Scott'; amy.walcker@gmail.com
Cc: Frost, Melissa; Morrison, David; McDowell, John
Subject: Continuance of Palmaz Matter to September 6, 2017 ALUC Meeting

Dear Commissioners,
I understand that no testimony will be heard on the Palmaz project at the August 2, 2017 ALUC meeting and that the item will simply be continued to the September 6, 2017 meeting.
Based on this understanding, I will not be attending the August 2 meeting to represent the interest of my client, Michelle Goss.

Thank you,
Deborah Holley

Holley Consulting
www.holleyconsulting.com
deborah@holleyconsulting.com
220 Montgomery Street Suite 2100 San Francisco CA 94104
415 389-9329 office
415 609-9329 mobile

McDowell, John

From: Marjorie Lewis <andyandmarge@yahoo.com>
Sent: Monday, July 24, 2017 5:33 PM
To: McDowell, John
Subject: Palmaz Heliport Project
Attachments: Palmaz Private Heliport and Hanger Project.rtf

Mr. John McDowell
ALUC Staff
Napa County

Dear Mr. McDowell and ALUC Staff,
Please find attached a letter of my concerns regarding the Palmaz Heliport Project, which I previously submitted to the Napa County Planning Commission and Supervisor Alfredo Pedroza.
My concerns remain as stated in the attached letter. In addition to the concerns outlined in my letter, I now must add to my protest the approval of the Mt. George Alternative site (Assessor's Parcel No. 033-110-079) which is actually closer to my home than the original proposed project site. Our neighborhood is one of many family homes, the value of which is the beauty and quiet nature of this residential area. A Heliport is incongruent with the established residential area, and will be a public nuisance.
I would appreciate an email response verifying receipt of my email and the attachment.
Thank you.
Marjorie Lewis
1019 Mt. George Ave
Napa, Ca 94558
707-363-2433

Sent from my iPad

June 2, 2016

Napa County Planning, Building and Environmental Services Department
1195 Third Street, 2nd Floor, Suite 210
Napa, CA 94559
Attention: Dana Ayers, Project Planner

Re: Palmaz Private Helipad and Hanger Project DEIR Comment

To the Napa County Planning Commission,

My name is Marjorie Lewis and I am the property owner of 1019 Mount George Avenue, Napa, CA. My husband and I have owned our home for approximately 21 years. Our home sits on 1 acre and is 1.1 miles from the Palmaz property by road; closer as the crow flies. I have been a resident of Napa since 1980, and my husband since 1955.

I am writing to express my objections to the Palmaz Private Helipad and Hanger Project. I want to point out that I have never met Mr. Palmaz or his family, and I have nothing personal against him.

I object to the project due to the following:

1) If the Palmaz Private Heliport and Hanger Project is approved, a precedent will be set for future development of personal heliports throughout Napa county. Given similar circumstances, on what grounds would a future applicant be denied, if the Palmaz Private Heliport was previously approved?

2) The Palmaz Private Heliport and Hanger project is a "recreational" project. It is simply one man's passion to land his helicopter next to his house. There is no business justification or public benefit of this heliport. The Napa County Airport is 11 miles from Mr. Palmaz's property and provides ample opportunity for his personal helicopter landing needs.

3) Once approved and built, there is absolutely no way to regulate Mr. Palmaz's usage of the private heliport and enforce compliance to the rules. The proposal states, "The heliport would be used for no more than four arrivals and four departures per week." Who will provide oversight to the usage? Is it the honor system? What happens when usage exceeds the limits and it becomes a nuisance? Human nature is such that we generally comply because there is a consequence if we do not.

4) As a property owner, I am entitled to the quiet enjoyment of my home and property. I support the flyover of helicopters, as we all do, for first responders such as the California Highway Patrol, Cal Fire and the REACH team. The noise near or over my home of the first responder helicopters is significant, but I understand the necessity of them. A recreational heliport 1.1 mile

from my home is disruptive at best and a private nuisance at worst. A Private Nuisance is an interference of a person's enjoyment and use of his land. Examples of private nuisances abound in the law, and include vibrations and loud noises. To clarify, since this is a private, personal heliport, it is separate and distinct from agricultural noise that is generally allowed.

Thank you for your consideration of my concerns and comments. Please take into account the future of our valley and deny the Palmaz Private Heliport and Hanger Project.

Sincerely,

Marjorie Lewis

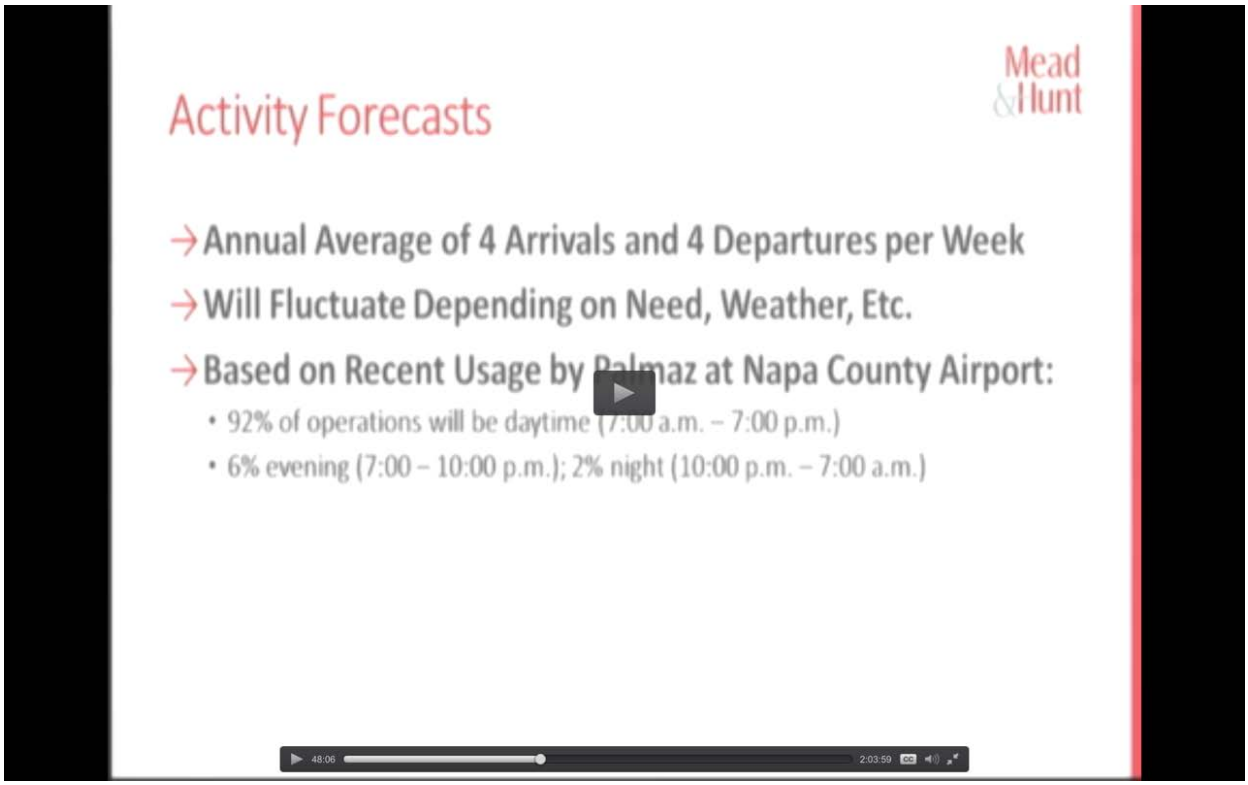
From: John Ray
To: Ayers, Dana
Subject: Comment Documents for the ALUC Meeting
Date: Tuesday, August 01, 2017 4:32:48 PM
Attachments: Helinort Hearing Letter 8-1-17.docx
Screen Shot 2017-08-01 at 9.45.36 AM.png

Hello Dana,

Here are two related documents for tomorrow's meeting. I hope to be there to bring you signed hard copy and to make a public comment.

Thank You.

John Ray
1681 Partrick Road
Napa, CA 94558
707-344-2221



JOHN & SUSAN RAY
1681 PARTRICK ROAD
NAPA, CA 94558
707-344-2221 (M)

August 1, 2017

Ms. Dana Ayers, Planner
Napa County Department of Planning, Building and Environmental Services
County Administration Building
1195 Third Street
2nd Floor
Napa, CA 94559

Re: Palmaz Heliport Project

Dear Ms. Ayers,

My wife Susan and I have previously expressed our concerns in writing about the inadequacy of the Palmaz Heliport DEIR, specifically about the use of computer noise modeling, rather than actual noise level measurement, and about the difficulty the County and neighbors will have in measuring and enforcing many of the key mitigation measures regarding helicopter flight operations, frequency and hours.

Subsequently, I attended the May 17, 2017 Airport Land Use Commission hearing on the Palmaz Heliport proposal and listened carefully to the testimony offered by the applicant's consultant from the firm of Mead & Hunt. I took contemporaneous notes, and have reviewed the video of the meeting to confirm my recollections.

I would like to draw the Commission's attention to part of that testimony which is deeply troubling, and speaks volumes about the applicant's intent to circumvent the mitigation measures specified in the DEIR.

Specifically, in verbal testimony, beginning at minute 47.53 of the May 17, 2017 ALUC meeting video, with a supporting slide displayed at that time (screenshot attached), the applicant is already appearing to interpret key mitigation measures in a way which does not reflect the language of the DEIR, and which are indicative of his intentions with respect to compliance. Key points made by applicant:

1. The limitation of 4 arrival and 4 departures per week is described on the slide and verbally as an "Annual Average" which "Will Fluctuate Depending on Need, Weather, Etc," This is not the language in the DEIR, which contains no reference to "averaging". With an "Annual Average", there could be many more than 4 arrivals and 4 departures per week. For example, if the

applicant has not flown from his proposed heliport for two weeks (due to absence from his residence, flying conditions, or the like), under his interpretation, he could have 12 arrivals and 12 departures in the following week, because it would average only 4 of each over the three weeks. And it seems from the verbal testimony and the slide that the applicant would have the sole discretion to determine this frequency, based on "Need, Weather, Etc."

2. In testimony and according to the slide, applicant is also hedging on a commitment to daytime (7 AM – 10 PM) hours of operation, since he anticipates at least some operations between 10 PM and 7 AM.

Taken together, these provide clear evidence of the applicant's intent to loosely and creatively interpret the DEIR so that he can conduct flight operations at a frequency during some weeks of the year at a rate higher than that permitted by the language of the DEIR, and to do so at least some times during late night and early morning hours when neighbors are most likely to be sleeping.

The applicant's apparent intent to thwart the DEIR mitigation measures strengthens our concerns about the difficulty the County and neighbors will have in enforcing the mitigation measures. This is particularly troubling in the face of the demonstrated significant financial resources available to the applicant to engage attorneys and consultants who can make enforcement efforts very expensive and time-consuming for the County and neighbors.

This proposal will not serve the public good and should net be approved by the ALUC.

Thank you for your attention to my comments. Please feel free to contact me if I can provide further information or clarification.

Sincerely,

John Ray

Copy: Mr. Ryan Gregory, Supervisor, District 2

Alex Ryan
1053 Mt. George Avenue, Napa, CA 94558
707-479-4554

RECEIVED
MAY 17 2017
Napa County Planning, Building
& Environmental Services

May 16, 2017

Napa County Planning Commission
Commissioner Anne Cottrell
1195 Third Street, Suite 210
Napa, CA 94559

RE: Palmaz Heliport

Dear Commissioner Cottrell:

As I think you know me well in representing Duckhorn Wine Company in Napa County, I am writing to you as a concerned citizen living in the east side of Napa, at the base of Mt. George, more specifically 1053 Mt. George Avenue.

I am generally a strong advocate of individual and property rights but I am voicing my opposition to put a helipad in this east side neighborhood in its entirety.

As you may be aware, this eastern portion of Napa is experiencing increasing daily flights since it is in the flight pattern of the growing Napa County Airport. In addition, we are experiencing more airplanes and helicopters over the hill due to Travis Airforce Base activity on what seems to be a more regular basis.

Similar to other current regulatory approvals that Napa residents are dealing with, allowing one more of a dangerous and controversial nature seems extremely inappropriate at this time.

In conclusion, if the driving issue is that Mr. Palmaz must make the relative convenient trip to the Napa County Airport to use his helicopter, then I remain steadfastly in opposition of a private use heliport in our neighborhood.

Regards,

Alex Ryan

cc: David Morrison

Dr. Ed Shenk
1238 2nd Ave.
Napa, CA 94558

RECEIVED
AUG 30 2017
Napa County Planning, Building
& Environmental Services

August 26, 2017

Jeri Gill, Chair
Napa County Planning Commission
1195 3rd St.
Napa, CA 94558

Dear Chair Jeri Gill and Planning Commissioners,
This letter is to reaffirm my concern about the Palmaz Personal Use Heliport, Use Permit Application, #P14-00261-UP, which will resume at the September 6, 2017 Napa County Planning Commission meeting. I am especially concerned with reports in the newspaper about another Palmaz heliport in vineyards owned by the family north of Sacramento. This information calls into question the supposed intent of the Palmaz family to use the heliport for personal use. One could conclude that the two heliports are being proposed in relation to business purposes

I believe that Farm Bureau and the Napa Grape Growers Association would like to see all open space in the Ag. Preserve used for agricultural purposes as would I. It is clear from the request by Palmaz that this Heliport has no relationship to agricultural purposes, but is only for personal use, which may or may not be complied with as outlined in their request and with the news of another heliport proposed for ag use in the county north of Sacramento. Additionally, the preferred site up the mountain within their land holdings may take as long to get to as a drive to the Napa County Airport. Thus, it may not be for convenience, but rather an avoidance of airport fees that is their real purpose. The higher ground also increases the risk of a major fire spreading before adequate fire services could arrive to prevent a major catastrophe in the Coombsville area..

In conclusion, I believe that the preservation of our agricultural reserve is very, very important and should not allow non-agricultural uses to be authorized within our Ag. Preserve. As stated publicly in the March commission meeting and via letter, I am opposed to the authorization of the Palmaz personal use Heliport. I will not be able to attend the next meeting on Sept. 6 meeting, but hope this letter again conveys my objections on this issue.

Thank you for your consideration and the time spent to review my latest objections.

Sincerely,

Dr. Ed Shenk

From:	Hanna Stolarczyk
To:	nbbrod@gmail.com; Caldwell, Keith; Ayers, Dana; joellegpc@gmail.com; mikebasayne@gmail.com; tkscottco@aol.com; JeriGillPC@outlook.com; anne.cottrell@lucene.com; heather@vinehillranch.com; napacommissioner@yahoo.com; Wagenknecht, Brad; mark.luce@countyofnapa.org; Dillon, Diane; Pedroza, Alfredo; Morrison, David; joellegPC@gmail.com; mikebasayne@gmail.com; Planning; Wagenknecht, Brad; Gregory, Ryan
Subject:	Palmaz Heliport Project
Date:	Tuesday, July 25, 2017 4:47:20 PM
Importance:	High

Dear Mr. Brod and Napa County Commissioners and Supervisors:

We have been advised that Mr. Brod will be acting as the Aviation Commissioner for Napa County and will be voting on the proposed Palmaz helipad project.

Please be advised that just like the overwhelming majority of our neighbors and your constituents, we are adamantly opposed to the construction of a helipad on the Palamz property.

In January 2016, we emailed to Mr. Caldwell and Ms. Ayers an extensive and detailed list of our objections, citing numerous legal issues that will arise should the Board approve said helipad project. Please kindly read our email below to understand why we are opposed to this project.

The Palmazes are requesting a conditional use permit, which by law should only be granted if its issuance does not "ask the community and the public to carry an undue burden for the sole benefit and pleasure of a single person and his family". Since in this case, the helipad and the resulting helicopter flights would clearly impose a burden on the community, granting said permit would be directly contrary to California Conditional Use Permit Case law.

Once again, given the various, multiple concerns and code violations, we strongly urge the Napa County Planning Commission to reject the Palmaz helipad proposal.

Sincerely,

Hanna Stolarczyk & Jackson Conaway

2010 North Third Ave.
Napa, CA 94558
(415) 871-6728
hstolarczyk@sfgaa.com

From: Hanna Stolarczyk [mailto:hstolarczyk@sfgaa.com]
Sent: Tuesday, January 19, 2016 3:46 PM
To: Dana.Ayers@countyofnapa.org
Cc: keith.caldwell@countyofnapa.org
Subject: Palmaz Helipad - Use Permit #P14-00261 EIR Scoping Comments
Importance: High

Dear Ms. Ayers:

We live in the Coombsville neighborhood of Napa and it came to our attention that one of our neighbors, the Palmaz family, filed a petition for approval to build a private helipad on their property.
This is most troubling news to us, since the main reason we decided to move to this neighborhood – as well as the reason we had to pay nearly million dollars for a fairly modest dwelling – is the peaceful and quiet location of our house. The proposed helipad would create a noise pollution and therefore it would have to be disclosed as a nuisance should we decide to sell our property. Would Napa County reimburse us for either failure to sell due to nuisance, or for the depreciation of property value due to same?

Our personal objections aside, please be advised that the proposed helipad and resulting helicopter flights in or near our neighborhood would create several legal considerations and potential lawsuits against Napa County, as the project is in violation of the following California Environmental Quality Act (CEQA) guidelines:

1. Any mitigation measures Palmaz agrees to are unenforceable due to the pre-emption of Local and State authority by Federal authority. Therefore, if Palmaz fails to adhere to the flight paths, times, altitudes etc. as per his proposal, Napa County will not be able to enforce them. The FAA generally does not regulate private heliports, so the project will not be enforceable (Napa County unable to regulate and the FAA unwilling), which in turn will expose the County to lawsuits from disgruntled residents, should the County approve the helipad proposal.

2. Palmaz has a history of non-compliance with existing environmental regulations, which creates a reasonable doubt that they would adhere to the proposed rules they submitted as part of their proposal.

3. In regards to **Aesthetics (CEQA Section 1)**, this project violates nearly every aspect of the Napa County viewshed ordinance:
   a) High intensity, red flashing or rotating lights are FAA recommended for night landings (omitted from Palmaz plans);
   b) Big vertical mass in the hanger door (side elevations showing hanger door also omitted from plans);
   c) No vegetative screening to hide unsightly architectural elements;
   d) Heliport will be visible from both Highway 29 and Silverado Trail.

4. In regards to **Agricultural and Forest Resources (CEQA Section 2)**, the Palmaz helipad project will directly interfere with agricultural operations:
   a) Napa County is a "right to farm" county; project is located in the Agricultural Watershed;
   b) Three vineyard irrigation ponds are in close proximity, as well as six ponds for the Napa Valley Country Club;
   c) The irrigation ponds attract migrating geese; according to the FAA geese are the third most dangerous animal in bird strikes;
   d) FAA recommends airports be at least 10,000 feet away from a hazardous wildlife attractant.

5. In regards to **Biologic Resources (CEQA Section 2)**, the Palmaz helipad project should be vetted against the conditions imposed upon Palmaz by their legal settlement (Napa County v. Palmaz - 2007).

6. In regards to **Safety Hazards (CEQA Section 8)**, the Palmaz helipad project violates the following regulations:

a. Multiple safety design flaws (fails to meet basic FAA guidelines in Advisory Circular 150_5390_2c "Heliport Design");
b. Fuel delivery on narrow, 2-lane residential streets. End of Hagen Road is single lane;
c. Fuel delivery near schools (fuel truck must cross at least one school – Apple Garden on Hagen, Vichy School on Vichy, or Mt. George and Silverado Schools on Coombsville);
d. Fuel delivery on substandard private access road (which lacks the proper CALFIRE-required road turnouts);
e. Fuel delivery on excessively steep private access road (thousands of gallons of aviation gas going up a 22-degree slope driveway, in excess of county standard);
f. Fuel delivery unstaffed (FAA has a set of guidelines on this subject, but if Palmaz fails to follow them, Napa County will not be able to enforce them);
g. High fire risk area (the possibility of the entire Vaca Mountain Range catching on fire);
h. Lack of fire truck access (the fire truck turnaround is where the helicopter lands – what would happen in an emergency situation?).

7. In regards to **Hydrology and Water Quality (CEQA Section 8)**, the Palmaz helipad project poses a danger of releasing an excess quantity of ground water during the excavation (a reasonable concern, based on the fact that the Palmaz winery cave excavation released a significant quantity of ground water for three years after construction).

8. In regards to **Zoning Regulations (CEQA Section 10)**, the Palmaz helipad proposal violates the Zoning Rules because the entire Olive Hill / Mount George area is zoned Residential Country (RC), not Agricultural Watershed (AW). Residential Country zoning was established to provide an area free of the negative environmental effects of Agricultural Watershed (AW) activity, including a helipad. The FAA recommends a minimum 2,000 foot AGL buffer in this scenario, which the proposed project fails to meet.

9. In regards to **Noise Regulations (CEQA Section 12)**, the Palmaz helipad project generates the following concerns:
   a. Over 200 homes, a recreational site (Napa Valley Country Club), a school (Apple Garden), and a religious site (Grange Hall) are all within the recommended minimum 2,000 foot AGL distance the FAA recommends in noise sensitive areas;
   b. The Palmaz noise study is a "best case scenario" funded by Palmaz. The whole point of CEQA is to have a third party provide their own analysis. For example, the noise study assumes a certain type of helicopter (unenforceable), on a certain flight path (unenforceable), avoiding certain homes on Olive Hill (unenforceable), at a certain elevation (unenforceable), flying a limited number of flights (unenforceable), during a certain time of day (unenforceable).

   Napa County has its own noise standards, which should be considered to determine whether or not the Palmaz site is "compatible" with our residentially zoned area. Part of this analysis is measuring the ambient noise level and evaluating the proposed noise relative to established thresholds.

10. Finally, in regards to **Mandatory Findings of Significance (CEQA Section 18)**, the concern is that the Palmaz helipad project could open the door for hundreds of helipad permits, which would radically change the dynamic of the Napa Valley. The County's economy relies on a quiet, peaceful outdoor environment in which to sell Napa Valley wines. While previous attempts to obtain a Use Permit for a

helipad have been limited by the low probability of success, a successful application would open the flood gates for more applications. Some analysis of the potential number of applicants is warranted.

In addition to the above concerns about multiple CEQA violations, the area where the proposed helipad and flight paths are to be located is also a home to golden eagle nests (specifically, the southern flight paths above the Dunlaps and Far Niente). Golden eagles are protected by at least three separate laws: The Bold and Golden Eagle Protection Act, The Migratory Bird Treaty Act and The Lacey Act. Furthermore, there are pileated woodpeckers, considered rare in this part of its range, mountain lions, and a host of raptors (protected Fish and Game Code, Sections 3503, 3503.5, 3505 and 3513, and California Code of Regulation, Title 14, Sections 251.1, 652 and 783-786.6).

Given the various, multiple concerns and code violations, we strongly urge the Napa County Planning Commission to reject the Palmaz helipad proposal.

Sincerely,

Hanna Stolarczyk & Jackson Conaway

2010 North Third Ave.
Napa, CA 94558
(415) 871-6728
hstolarczyk@sfgaa.com

McDowell, John

From: McDowell, John
Sent: Wednesday, May 24, 2017 3:19 PM
To: 'Dhana Waken'
Subject: RE: PALMAZ Heliport:Requesting letter of receipt of my statement letter and outcome, please!!!!

Thank you for the correspondence. I have forwarded to the Clerk of the Commissions for inclusion in the administrative record.

John McDowell
Napa County Planning, Building and Environmental Services Department
(707) 299-1354

-----Original Message-----
From: Dhana Waken [mailto:wakendhana@yahoo.com]
Sent: Wednesday, May 24, 2017 2:52 PM
To: McDowell, John
Subject: RE: PALMAZ Heliport:Requesting letter of receipt of my statement letter and outcome, please!!!!

Attn: John McDowell
Re: PALMAZ

"Please re-use and share, my letter of concerns for next meeting, if, it did not meet the last deadline for emails.

Also it would be, to the best of interest for "Property Owners in our neighborhood" ...for the Napa County Admin to respectfully, schedule PM meeting for regard to Property Owners concerned!

The PALMAZ property is a five minute walk from our front door-to PALMAZ front entrance of their property and would be an absolute annoyance in many concerns about this Heliport!

Consider, that many cities and neighborhoods have banned, even garden blowers!!!
Yes, there are vineyard blowers in surrounding properties, that's more than enough "NOISE POLLUTION"!!!!

The PALMAZ property is a 15 minute drive to LOCAL Napa Airport and absurd, they cannot drive that distance!

Their request, is nothing proper, only fact is, they have money to blow, with no concern for our neighborhood's tranquil environment, property values, wildlife, toxic fuel emissions and their selfish want, and ...possible $$$ for the Napa County Administration coffers.

Thank you for honestly, taking the effort to respond to my letter. Your action is appreciated.
If you don't live in this neighborhood, all of you, (Napa County Administrators) take into consideration, if it were "in your backyard"!

This approval, will "open the floodgates" to more Heliports, through out our prestigious Napa Valley, and Toxic fuel Emissions to those of us who live within 5 mile radius and...will contribute to Health concerns, now evident... more Respiratory disorders (from Allergens and chemicals, of vineyard use, which has decreased frog population in our nearby creeks, less clear healthy running creeks, milky waters)

We have lived in this valley for 43 years, and this selfish act of Palmaz Heliport, because you have money to spend... has more damaging effects unforeseen or mentioned, we strongly OPPOSE, such negligence of Napa County Administration for not doing the math and in the years to come and the impact of Respiratory health concerns to people, as well as, to wildlife environments and NOISE POLLUTION!

Respectfully,

Mr. & Mrs. Eugene Waken
1145 Olive Hill Lane
Napa, CA 94558

On Wed, 5/24/17, McDowell, John <John.McDowell@countyofnapa.org> wrote:

Subject: RE: Requesting letter of receipt of my statement letter and outcome, please!!!!
To: "'Dhana Waken'" <wakendhana@yahoo.com>
Date: Wednesday, May 24, 2017, 8:03 AM

Mrs. Waken,

No final decisions occurred at last week's Airport Land Use Commission and Planning Commission meetings. The Airport Land Use Commission was deadlocked
(3-3) on the matter, and therefore the item was continued until a date can be found when the seventh Commissioner can participate. A new public hearing notice will be sent once a date can be secured. Since the Airport Land Use Commission's determination is required for the Planning Commission to act, the Planning Commission was obligated to continue the item. We are looking to schedule the next hearing in June or July depending on when all Commissioners are available. If you have received notice of past meetings, you will be mailed the new notice. If not, please feel free to give me you mailing address and I'll get your name added to the list.

Thank you,

John

John McDowell
Napa County
Planning, Building and Environmental Services Department
(707) 299-1354

-----Original Message-----
From: Dhana Waken [mailto:wakendhana@yahoo.com]
Sent: Tuesday, May 23, 2017 5:24 PM
To: McDowell, John
Subject:
Requesting letter of receipt of my statement letter and outcome, please!!!!

Attn:

John McDowell
County of
Napa

Re: PALMAZ outcome

As a Napa Tax paying citizen,
I am requesting the outcome of recent PALMAZ hearing via email.

Please Advise, via
email above!

Respectfully,
Mrs. Dhana
Waken
wakendhana@yahoo.com

Sent from my iPhone
CONFIDENTIALITY NOTICE: This email message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If you are not the intended recipient of the message, please contact the sender immediately and delete this message and any attachments. Thank you.