
BRENT P. COLLINSON, ATTORNEY AT LAW

DATE: 11/16/2011
TO: TTAD BOARD OF DIRECTORS
FROM: BRENT P. COLLINSON
RE: SOAR TRUCKEE/4-BLADE PROPELLER

Dear Board—It is my understanding that the Agreement with Soar Truckee regarding the use of a 4-blade propeller by one of their tow planes, as well as the potential renewal of their Lease, set to expire on April 30, 2012, will be discussed at the upcoming Board Meeting. Attached to this memo is a copy of the signed Agreement regarding the installation, use and compensation for that propeller.

In a nutshell, the Agreement is that if Soar Truckee chose to install the 4-blade propeller on the identified aircraft (hereafter, the “Pickle”), they would receive a credit on their leases (three hangars and the tow-glider operations) until the cost of the purchase, installation and FAA inspections or required approvals for the initial installation had been recouped, at which time those credits would no longer be available (section 3).

In return for those credits, Soar Truckee agreed to use the Pickle on a priority basis (section 2). The Lease makes clear that this is Soar Truckee’s project and that the District has no ownership in the Pickle, the propeller, or any involvement in the installation, operation or maintenance of the Pickle or the propeller (section 6).

The Agreement also provided that during the first season of use (May 1, 2006 through October 15, 2006), if the Pickle was not used with the 4-blade propeller, the lease credit would be reduced by pro-rating the days it was not used with the 4-blade propeller against a 30-day month (section 4).

Although section 4 states that the pro-rating of non-use of properly equipped Pickle is for “the term of this Agreement”, that language only applies to the pro-rating of the rental payment credits. Section 2 states that Soar Truckee agrees to use the Pickle with the 4-blade propeller not only during the 2006 season, but also during “all subsequent years of operation”. However, the cost of the 4-blade propeller was “recovered” during the first season of use, so arguably, the District (and its constituents) was able to “enjoy” the benefits of the 4-blade propeller from 2007 until it was discontinued during the 2010 season.

Although no financial penalty is prescribed in the Agreement, the District does have the ability to enjoin the use of the Pickle if not "properly" equipped as monetary damages would be difficult to prove. However, if that course of action was taken, it could expose the District to liability if an incident occurred that was attributed to the use of the 4-blade propeller.

Subsequent to the May, 2006 Agreement discussed above, the Board did review and discuss the renewal of Soar Truckee's lease for use of the glider port at their April 24, 2006 Board Meeting. The Minutes of that meeting reflect that it was pulled from the Consent Calendar. Although not reflected in the Minutes, I do have an independent (though not specific) recall of the Board discussing (presumably at that meeting) whether to include in that 4-year Lease a continuing requirement that the Pickle, or all tow-planes, be equipped with a 4-blade propeller. My recall is that the Board decided at that time to not impose that requirement in the Lease, both to avoid inserting the District into their business operations but also to avoid any potential exposure to liability for requiring specific equipment to be used.

B. C.

BPC