December 6, 2019

BY ELECTRONIC MAIL

Office of the Chief Counsel
Attention: FAA Part 16 (Airport Proceedings Docket)
AGC-610
Federal Aviation Administration
800 Independence Ave. S.W.
Washington, D.C. 20591
9-AWA-AGC-Part-16@faa.gov

RE:  Mark Smith, et al. v. City of Santa Monica, California,
FAA docket no. 16-16-02

Complainants respectfully object to any further delay in this proceeding, including the 45-day extension of the appeal deadline sought by the City. Given the time that has already elapsed and the impact of the City’s practices on SMO users and tenants, any further delay is unjustified. As the City acknowledges, the matter has been pending since early 2016. During that time the City has maintained, and continues to impose, landing fees that are among the highest in the country, which complainants contend are unlawful ab initio.

The primary justification asserted by the City for the extension of its appeal deadline is that it might enter into discussions with the Western-Pacific Region regarding the airport’s finances, based upon a directive in the Region’s October 21, 2019 informal determination, which the City claims could moot the present proceeding. But the City’s speculation about what it might do – even while disputing the validity of the Region’s directive – is simply not good cause for delay. As a matter of policy, the City should not on such an attenuated basis be allowed to delay a long-awaited final decision on its landing fees and Airport financial transactions.
Further, as much as the City may desire to “moot” a final determination regarding its financial practices – already found to be violations – through informal discussions with regional officials, that is legally impermissible. Only certain of the present complainants were parties to the Part 13, and their rights cannot simply be ignored. Nor does the Region have authority under Part 13 to compromise a now-concluded Director’s Determination, or any Part 16 appeal. See, e.g., Centennial Express Airlines v. Arapahoe County Public Airport Authority, no. 16-98-05, Final Agency Decision (February 18, 1999), at 4 (noting that duplicative Part 13 proceedings had been consolidated into Part 16 proceeding).

Accordingly, the City’s motion should be denied.

Respectfully submitted,

[Signature]

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Certificate of Service

I hereby certify that I have this day caused the foregoing pleading to be served on the following persons at the following addresses by first class mail, postage prepaid, and by electronic mail:

- Rick Cole, City Manager, City of Santa Monica, 1685 Main Street, Room 209, Santa Monica, CA 90401, rick.cole@smgov.net

- Lane Dilg, Esq., City Attorney, City of Santa Monica, 1685 Main Street, Room 310, Santa Monica, CA 90401, lane.dilg@smgov.net

- Susan Cline, Director of Public Works, City of Santa Monica, 1685 Main Street, Room 116, Santa Monica, CA 90401, susan.cline@smgov.net

- Stelios Makrides, Airport Manager, Airport Administration Building, 3223 Donald Douglas Loop South, Santa Monica, CA 90405, stelios.makrides@smgov.net

- Scott Lewis, Esq., Partner, Anderson & Kreiger LLP, 50 Milk Street, 21st Floor, Boston, MA 02109, slewis@andersonkreiger.com

Dated this 6th day of December, 2019

Jol A. Silversmith