

#65.40

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First Supplement to Memorandum 69-133

Subject: Study 65.40 - Inverse Condemnation (Aircraft Noise Damage)

The attached article from the Los Angeles Daily Journal provides you with additional background information concerning the aircraft noise problem.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary

Friday, December 26, 1969

# Statewide Zoning Standards Are Sought for Compatible Use of Airport Land As Both Population and Airline Transportation Problems Continue to Grow

The cries of home owners and land developers against airport noise have been met with an equal force of advocates for stricter land use zoning around airports. The problem has become more intense over recent years as the air transportation industry has expanded and cities and housing developments crowd more closely within the attractive open space land around airports.

The airlines, aircraft manufacturers and the federal government have invested substantial sums into aircraft noise abatement. Significant improvements have been made. The DC-10, L-1011, and B-747 will come out next year with quieter engines, however, the noise decrease may be hardly noticeable. Noise will continue to be a nuisance for airport neighbors.

Until recently the emphasis of zoning for airports has been

restricted to the purpose of protecting land owners in the path of airplane takeoff and landing patterns. Local jurisdictions, however, will soon be forced to intercept in the planning stages of airports and surrounding developments to assure "compatible land use." Ideally, it is hoped that in future planning for airports, communities will allow for adequate noise buffer zones as well as the obstruction clear zones required for safety purposes.

The problem that arises with such zoning regulation is that often more than one jurisdiction is involved in the areas surrounding an airport and coordination is sometimes difficult. The affected communities may have different measures for land use in terms of its greatest tax base, population growth and overall land values.

#### Legislative Study

The Assembly Commerce and Public Utility Committee, chaired by Assemblyman Robert Badham, R-Newport Beach, has been assigned during the interim period the task of considering possible state action in this field. It has been proposed that a statewide

policy for "compatible land use" around airports be drawn up - where local governments fail to establish regulation.

The present Airport Zoning Law contains no method by which property within an unwilling jurisdiction can be zoned, either by the airport authority, a multiple jurisdictional or state zoning body. Only the jurisdiction in which the airport hazard area lies can zone.

A bill introduced in the last session, AB 1908 by Assemblyman Jesse Unruh and Yvonne Brathwaite, would have permitted zoning of an airport hazard area lying within a non-airport owning community, over the refusal of the jurisdiction to zone. The proposal, which failed to gain support, is similar to the approach to airport zoning adopted in Illinois in 1961. However, AB 1908 was still principally directed to zoning for hazards, rather than for compatible land use. The bill would have authorized municipalities to enforce zoning rules limiting the height of structures and natural growth in the path of airplane approaches.

Testifying before a November hearing of the Commerce and Public Utilities Committee, John Stephen, of the Air Transport Association, said that one of the intentions for compatible land use major deficiencies of AB 1908 was that it failed to spell out its Zoning Standards

mentioned in the bill. A section of the bill states that "standards for zoning of land around airports should be adopted to ensure compatibility of such lands with the continued existence of the airport..." Stephen suggested that the bill be amended in the next session to provide a clearer guideline for the development of zoning standards.

It was suggested at the hearing that the airports, in turn for the benefits of increased restrictions on land use, should pay a user's tax, such as a tax on commercial jet fuel, as some other 20 states charge, or a head tax on

passengers using the airport.

J. R. Crotti, director of the California Department of Aeronautics, said, "Unless we can solve the zoning and noise problems of our airports, we will not be able to build new ones - the problem is that critical." Crotti said funds are needed to solve the problems of airport development and planning. A user's tax on commercial jet fuel would seem appropriate, he said.

Crotti explained to the committee that the state's Department of Aeronautics and the Airport Assistance Revolving Fund's activities are funded presently from the resources of the two cent fuel tax on general aviation users. There has been no tax in California yet on commercial aviation jet fuel. He said it seems only fair that the air carriers and users of jet fuel should be required to bear their fair share of airport planning and development costs.

#### Jet Fuel Tax

AB 1244, passed in the last session, will impose a tax on general aviation aircraft jet fuel, excepting the common aircarriers engaged in the business of transporting persons or property for hire or compensation. Spokesmen for the airlines said they would oppose attempts to place a tax on commercial jet fuel. They were less opposed to a head tax on passengers.

Other measures introduced in the last year for stricter airport zoning policies included proposals to require that all power and telephone lines within a certain distance of runways be installed underground; that airports be classified for the type of aircraft they may fly; and the proposal that airport zoning commissions be established to enforce zoning standards for surrounding communities.