

November 13, 2014

MP James Rajotte, Chair
Standing Committee on Finance (FINA)
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, ON K1A 0A6

Email: FINA@parl.gc.ca

Dear Chair and Committee Members,

On behalf of Burlington City Council, this is a formal submission with regards to the proposed amendments to the Aeronautics Act, specifically Bill C-43 the Federal Governments Omnibus budget implementation bill. The City of Burlington welcomes the opportunity to provide submissions in relation to the proposed amendments contained at Division 2, Aeronautics Act, Section 143 and 144 with regards to the construction of development or expansion or any change to the operation of a given aerodrome.

As you may or may not be aware, the City of Burlington has an aerodrome within its city limits. Burlington Airpark Inc. ("Airpark") is located in the city's rural area on a collection of parcels known municipally as 5260, 5296, 5300, 5316 (all one property) and 5342 Bell School Line and 5351 Appleby Line. The Airpark was founded in 1962 and has a longstanding presence in the city's rural area. It consists of four paved runways, a main north-south runway and an east-west runway. The Airpark also includes a terminal and several hangars used for the storage and repair of aircraft.

Over the past two years the City of Burlington has been drawn into legal proceedings at the Ontario Superior Court and the Ontario Court of Appeal with the Airpark over the development and expansion of its facilities and infrastructure. The City of Burlington was drawn into legal proceedings as a result of issues arising from increased truck traffic volumes onto the Airpark site; environmental concerns respecting the quality of fill being trucked onto the site, possible impacts on groundwater quality, and drainage impacts on surrounding lands; and the negative impact on the surrounding resident's quality of life.

I have included both relevant background information within this letter and also attached a briefing note on the Burlington Executive Airpark Jurisdictional Issues that provides a sequence of events related to this longstanding issue.

Burlington City Council passed the following resolution on June 10, 2013:

- Direct the City Solicitor to develop a legal strategy to address the concerns expressed by council and citizens regarding issues with the Burlington Executive Airport and report back to Council on July 2, 2013; and
- Direct the Director of Engineering to review and update the City's Site Alteration By-law 6-2003 to reflect best practices by September; and
- Direct the Mayor and City Manager to jointly contact the federal Minister of Environment to request that soil testing be ordered for the Burlington Executive Airport property; and
- Direct the Mayor to work with the Federation of Canadian Municipalities to lobby the federal Minister of Transportation and other relevant Ministries to develop a process to allow municipalities to have input on airpark land filling operations and expansion plans; and
- Direct the Director of Finance to arrange a meeting with MPAC representatives and the affected property owners abutting the airport property specific to the property owners current value assessment; and
- Direct the General Manager of Development and Infrastructure to request the owner of the Burlington Executive Airport to provide the City with a complete site and grading plan that minimizes impacts on neighbouring properties. Further, request that the owner modify existing grades to minimize impact on neighbouring properties; and
- Direct the Director of Planning and Building to have staff enforce the Dust Suppression- By-law 50-2008, that requires consideration be given to neighbouring properties when construction processes generate dust, and enforce the provisions of the Nuisance and Noise Control By-law including after hours enforcement and issuing offence notices if applicable and as necessary

The City of Burlington recommendation was supported by Halton Regional Council, who passed the following resolution on June 19, 2013:

- THAT staff be directed to present a by-law to immediately suspend and close access to Appleby Line (Regional Road 20) from the most southerly access of the Burlington Air Park for Council's adoption at the Regional Council meeting of June 19, 2013.
- FURTHER THAT staff be directed to present a report to address managing and mitigating site alteration and fill operations, along with potential health impacts associated with fill placement.

On June 11, 2014, The Court of Appeal for Ontario upheld the decision that the City of Burlington's site alteration by-law applies to the Burlington Executive Airport a copy of which is attached to these submissions. This decision has been long, arduous and costly to the City of Burlington. Burlington City Council supports the Government's efforts to introduce increased control and regulation over the development, expansion, or change in operation of aerodromes where such development, expansion or change is likely to adversely affect aviation safety or is not in the public interest.

Burlington City Council also supports the proposed amendments that will give the Governor in Council the discretion to regulate the need for greater consultation by aerodrome operators and proponents before development, expansion or change to aerodrome operations takes place. Burlington City Council supports the amendments as proposed by the Government to the Aeronautics Act.

We are currently in the process of formalizing our support through a Council resolution in a report we are taking to the Development and Infrastructure Committee on Nov. 17, 2014 and to Burlington City Council on Nov. 20, 2014.

Sincerely,



Mayor Rick Goldring
City of Burlington

CC. Mike Wallace, MP
Attachment

Backgrounder:

The following is a timeline related to the issues surrounding the Burlington Executive Airport:

- The Ontario Court of Appeal heard Burlington Executive Airport's appeal of the decision of the Superior Court of Justice on June 11, 2014. The court issued an oral decision at the conclusion of the hearing that the City's Site Alteration By-law is valid and binding on the Burlington Executive Airport in respect of the filling operations. A written decision was released on June 13, 2014.
- The Burlington Executive Airport is located in the city's rural area on a collection of parcels known municipally as 5260, 5296, 5300, 5316 (all one property) The airport deposited substantial quantities of fill on the site over the last six years. It is estimated that approximately 500,000 cubic meters of fill material has been received at the airport site between 2008 and present.
- Airport officials have indicated that the work being done is to raise and level a large portion of the site for expansion of the airport.
- The City has taken the position that the municipal Site Alteration By-law (6-2003) is applicable to the airport and must be complied with. As a result, the City of Burlington issued an Order to Comply under the Site Alteration By-law on May 3, 2013.
- The Order to Comply was served to the owner of the Burlington Executive Airport at an in-person meeting. The Order to Comply included instructions that the current dumping and filling operations were required to stop, and that the owner would be required to apply for and obtain a Site Alteration Permit from the City in order to continue the dumping and filling operations. Burlington Executive Airport took the position that the City does not have jurisdiction over their operations, and thus instructed their contractor to continue the dumping and filling operations.
- The City cannot leave this matter unchecked. Residents neighboring the airport property have raised a number of concerns including concerns about soil and water contamination from fill being moved onto the site, as well as concerns about the expansion.

- THAT the memoranda from the Commissioner of Public Works included in the Miscellaneous Information section of the agenda and distributed at the meeting be received for information.
- In June and July, 2013, both the City and Burlington Executive Airport brought applications to the Superior Court of Justice for the Court's determination of whether or not the City's Site Alteration By-law could be enforced against Burlington Executive Airport. These applications were heard by the Court on October 4, 2013.
- On November 13, 2013, the Superior Court of Justice ruled that the City's Site Alteration By-law 6-2003 was valid and binding upon Burlington Executive Airport with respect to its landfill activities at the airport. Burlington Executive Airport appealed the decision of the Superior Court of Justice to the Ontario Court of Appeal.
- On December 18, 2013, Transport Canada released Advisory Circular No. 300-009 entitled "Land Use and Jurisdictional Issues at Aerodromes". The document notes that questions have arisen "respecting the use of contaminated fill, paint fumes, the improper disposal of solvents and paints in the local drainage system, the building of hangars etc. and the application of provincial and municipal laws to these activities. The document states that the federal Aeronautics Act does not grant immunity to an aerodrome operator/developer from compliance with all other valid provincial legislation or municipal by-laws. The document concludes "For those structures or activities that are determined not to be integral to aviation, it is expected that the proponent of an aerodrome comply with all applicable provincial legislation and municipal by-laws."
- As noted above under Current Status, the Court of Appeal heard, and dismissed, Burlington Executive Airport's appeal on June 11, 2014.