

IN THE CHANCERY COURT FOR ROBERTSON COUNTY, TENNESSEE

WINGNUTS AVIATION, LLC

Plaintiff,

v.

SPRINGFIELD, TENNESSEE; ROBERTSON
COUNTY, TENNESSEE;
SPRINGFIELD/ROBERTSON COUNTY
JOINT AIRPORT BOARD; HENRY "HAWK"
RUTH; AND KRISTIN BUTTKE,

Defendants.

No. CH19-CV-6

Jury Requested

FILED
CLERK & MASTER ROBERTSON CO. TN

JAN 07 2019

AT _____ O'CLOCK _____ M
ROSEMARY E. PHILLIPS

BY _____

MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S MOTION FOR TEMPORARY INJUNCTION

In support of its Motion for Temporary Injunction, Plaintiff Wingnuts Aviation, LLC ("Wingnuts") submits this Memorandum of Law. Wingnuts respectfully requests that the Court enter a temporary injunction against Defendant Springfield/Robertson County Joint Airport Board ("the Board") prohibiting it from denying Wingnuts' right to renew the Lease and F.B.O. Management Agreement ("the Agreement"), entered into by and between Wingnuts and the Board, in violation of the express terms of the Agreement. Wingnuts submits that if a temporary injunction is not granted, it will suffer immediate and irreparable harm.¹ Denial of injunctive relief will require the termination of employees and the closing of a business that cannot be relocated or later reconstructed if the Plaintiff were to prevail in this action thus rendering a final judgment in its favor ineffectual. As discussed below, an injunction will maintain the status quo, continue the generation of revenue to the City of Springfield and Robertson County, and will not result in harm

¹ The Agreement pertains to Wingnuts serving as the Fixed Base Operator for the Springfield/Robertson County Airport ("the Airport").

to the City of Springfield or Robertson County. The breaches of contract and violations of the open meetings act committed by the Defendant Board cannot be disputed and there is a substantial likelihood that the Plaintiff's will prevail on the merits. Accordingly, Wingnuts requests that a preliminary injunction be granted.

FACTS

Anna and Chris Ferraraccio, d/b/a Wingnuts Aviation and Wingnuts Aviation, LLC, and the Board entered into the Agreement effective as of February 13, 2014.² The term of the Agreement is from February 13, 2014 until February 12, 2019, with a five (5)-year extension ending February 12, 2024.³ The Agreement provides that “[u]nless this agreement has been previously terminated during this Five (5) year term, or Five (5) year extension, Wingnuts Aviation, LLC agrees to give the Board at least 60 days prior written notice before the end of the term whether they are interested in renewing this agreement.”⁴ On December 11, 2018, more than sixty (60) days prior to the end of the current term of the Agreement, Wingnuts gave the Board notice that it was exercising its rights under the Agreement to renew the Agreement term for an additional five (5) years ending February 12, 2024.⁵ The Agreement provides that “Any renewals **after 2024** shall be subject to the agreement of both parties and upon terms and conditions as they may then determine.”⁶ The Agreement provides that, on payment of the rent and performance of the covenants and agreements on the part of Wingnuts to be performed under the Agreement, Wingnuts “shall peaceably hold and enjoy the leased premises and all the rights and privileges of the Airport, its appurtenances and facilities as set forth” in the Agreement.⁷

² See attached Ex. A.

³ Ex. A, ¶ 1.

⁴ Ex. A, ¶ 7.g.

⁵ See attached Ex. B.

⁶ Ex. A, ¶ 7.g.

⁷ Ex. A., ¶ 1.

In violation of the Agreement, the Board has denied Wingnuts' right to renew the Agreement. On or about December 10, 2018, Defendant Henry "Hawk" Ruth ("Mr. Ruth"), who serves as the Chairman of the Board, sent an email to certain individuals, including Chris Ferraraccio and members of the Board, containing an outline of the Board's upcoming December 12, 2018 board meeting.⁸ Mr. Ruth's outline provided, among other things, the following:

Vote to not extend Wingnuts contract for another five years.

The motion will be from Neil Peterson with some reason why we should not extend the contract.

Chris Simpkins will second that motion.

Under Roberts Rules there is a discussion and the Chairman will lead that discussion.

Only Board members allowed to speak during the discussion.

Points to be discussed:

-The current contract states: The Springfield Joint Airport Board and Wingnuts "entered into for a five 5 years Agreement with an additional Five 5 year extension upon satisfactory performance as determined by both parties."

? -Some of the past performances have caused dissension and differences between the Board and Wingnuts and some City and County officials. There have been contract discrepancies and failures by Wingnuts to meet the contract directions.

?-The fact that Wingnuts offered a contract adjustment also alienated Board members and City officials.

-Some of the requirements of the current contract required an airport sponsored flight school which included airplanes to be rented...did not happen.

-Wingnuts acquired another corporate hangar under another name owned by Wingnuts and without written permission from the Board as required by the contract. They used corporate #3 hangar for their own aircraft and overflow from their maintenance hangar.

-They also imposed their sixty percent refund on the hangar's fees all without airport board's permission.

⁸ See attached Ex. C. The attached Ex. C. contains the email sent by Mr. Ruth as well as the outline of the Board's upcoming December 12, 2018 board meeting.

-FBO's airport manager support...created a number of administrative issues. One example, by not recognizing airport maintenance grant to support our airport.

-Therefore, I believe there is sufficient reason not to extend Wingnuts contract due to their unsatisfactory performance.

-All in favor of not extending the FBO's contract for another five years say aye. Any opposed say No.

-Meeting adjourned.⁹

The Board held a meeting on December 12, 2018.¹⁰ A member of the Board, Kirk Johnson ("Mr. Johnson"), participated in the December 12, 2018 board meeting by electronic means and was otherwise not physically present for the meeting.¹¹ Although required by the Tennessee Open Meetings Act, Tenn. Code Ann. § 8-44-108, Mr. Johnson failed to identify the persons present in the location from which he participated in the December 12, 2018 board meeting.¹² Furthermore, the notice for the Board's December 12, 2018 meeting failed to state that the meeting would be conducted permitting participation by electronic or other means of communication as required by Tennessee Code Annotated Section 8-44-108.¹³ Thus, the meeting and vote are void and of no effect under Tennessee law. Notably, Mr. Johnson's vote constituted the final vote necessary to establish a majority vote to deny Wingnuts' right to renew the Agreement.¹⁴ Absent his participation, the motion to deny Wingnuts' right to renew the Agreement would have failed.

In spite of the defective proceeding, the Board's legal counsel notified Wingnuts on December 12, 2018 that the Board rejected Wingnuts' exercise of its right to renew the Agreement term to February 24, 2024.¹⁵ The Board concluded that it would deny Wingnuts' right to renew

⁹ Ex. C.

¹⁰ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 31.

¹¹ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 32.

¹² Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 32.

¹³ See attached Ex. D.

¹⁴ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 32.

¹⁵ See attached Ex. E.

the Agreement for an additional five (5) years as the Board voted that “there has not been satisfactory performance.”¹⁶ The Board’s action breached the Agreement because the Board did not rely upon operating language in the Agreement and instead relied upon unenforceable recital language that is of no legal effect. The “satisfactory performance” language upon which the Board relied is merely ambiguous and vague introductory language in the recital of the Agreement, which is not controlling under Tennessee law.¹⁷ Instead, the specific language of Paragraph 7 of the Agreement provides the exact bases upon which either party may terminate the Agreement.¹⁸ Moreover, the Agreement provided that the Board was required to give Wingnuts thirty-day written notice of breach of the Agreement and an opportunity to cure such noticed breach of the Agreement if Wingnuts “failed to perform, keep and observe any of the terms, covenants or conditions” of the Agreement.¹⁹ Prior to December 12, 2018 when the Board decided to deny Wingnuts’ right to renew the Agreement, based on an alleged finding that there had not been “satisfactory performance”, the Board never gave Wingnuts a thirty-day written notice that it had “failed to perform, keep and observe any of the terms, covenants or conditions” of the Agreement, or had otherwise breached the Agreement.²⁰ Furthermore, the Board denied Wingnuts’ right to renew the Agreement without giving Wingnuts thirty days to cure any alleged failure “to perform, keep and observe any of the terms, covenants or conditions” set forth in the Agreement.²¹

Wingnuts has a thriving well established business that has benefited the airport, the City of Springfield, and Robertson County. Wingnuts has amassed a base of clients at the Airport through its goodwill and reputation as a business that provides good and valuable services within the

¹⁶ Ex. E.

¹⁷ Ex. A, Recital, p. 1. *See In re Estate of Hillis*, No. M2015-00404-COA-R3-CV, 2016 Tenn. App. LEXIS 148, at *21 (Tenn. Ct. App. Feb. 25, 2016).

¹⁸ Ex. A, ¶ 7.

¹⁹ Ex. A, ¶ 7.b.

²⁰ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 16.

²¹ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 17.

aviation industry.²² Wingnuts has increased the annual number of operations at the Airport during the term of the Agreement.²³ Wingnuts has increased fuel sales at the Airport during the term of the Agreement.²⁴ Wingnuts has increased the number of hangar tenants during the term of the Agreement.²⁵ Wingnuts has passed all airport-related inspections during the term of the Agreement.²⁶ Additionally, John R. Poole, CPA ("Mr. Poole"), at the request of the Board, reviewed certain procedures related to Paragraph 3 of the Agreement.²⁷ In particular, Mr. Poole was asked to verify whether Wingnuts was paying the Board (1) six cents per gallon on all aviation fuel dispensed, (2) forty percent of all storage fees on hangars and ten percent of tie down fees, and (3) \$500.00 per month.²⁸ Mr. Poole concluded that Wingnuts had met all of the requirements related to Paragraph 3 of the Agreement.²⁹

Wingnuts also operates a maintenance facility at the Airport pursuant to the terms of the Agreement.³⁰ Wingnuts has scheduled maintenance for its customers continuously through the next twelve (12) months.³¹ Wingnuts has booked a substantially full maintenance schedule for its customers through the end of April 2019.³² Wingnuts must be located on an airport to conduct its business, which includes the provision of maintenance and repair services for aircraft.³³ Available airport properties near Springfield, Tennessee to which Wingnuts could relocate its business are very limited.³⁴ Wingnuts currently employs nine persons.³⁵ Relocating Wingnuts to another

²² Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 18.

²³ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 18.

²⁴ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 18.

²⁵ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 18.

²⁶ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 18.

²⁷ See attached Ex. F.

²⁸ Ex. F.

²⁹ Ex. F.

³⁰ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 19.

³¹ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 19.

³² Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 19.

³³ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 19.

³⁴ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 19.

³⁵ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 19.

location would require termination and hiring of employees, extensive employee training, execution of new vendor and supplier contracts, moving equipment, potential construction of new shop premises, and cancelation of time-sensitive scheduled customer maintenance services resulting in unairworthy aircraft.³⁶ Additionally, Anna and Chris Ferraraccio would be required to relocate their personal residence.³⁷

STANDARD FOR GRANTING INJUNCTIVE RELIEF

Rule 65.04(2) of the Tennessee Rules of Civil Procedure sets forth the prerequisites for obtaining a temporary injunction:

A temporary injunction may be granted during the pendency of an action if it is clearly shown by verified complaint, affidavit or other evidence that the movant's rights are being or will be violated by an adverse party and the movant will suffer immediate and irreparable injury, loss or damage pending a final judgment in the action, or that the acts or omissions of the adverse party will tend to render such final judgment ineffectual.

Tenn. R. Civ. P. 65.04(2).

Although lawyers often equate injunctive relieve with "irreparable harm," Rule 65.04 states that injunctive relief may be granted if the evidence shows (1) "that the movants ... will suffer immediate and irreparable injury...**OR** [(2)] that the acts or omissions of the adverse party will tend to render such final judgment ineffectual." Indeed, Wingnuts can satisfy each of the grounds demonstrating that injunctive relief should be granted.

³⁶ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 19.

³⁷ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 40.

LAW AND ARGUMENT

I. The recital language from the Agreement, relied upon by the Board in denying Wingnuts' right to renew the Agreement, contradicts and is inconsistent with the operative language in the body of the Agreement.

The Board, as evidenced by the letter from the Board through the City Attorney, asserts that the five-year renewal of the Agreement is “subject to a joint finding of satisfactory performance of the current Contract and that determination must be made by both the Board and Wingnuts.”³⁸ The basis for this assertion by the Board is found only in the recital introductory language to the Agreement. The pertinent recital language provides:

WHEREAS, The SPRINGFIELD-ROBERTSON COUNTY JOINT AIRPORT BOARD and Wingnuts Aviation, LLC, enter into a Five (5) year Agreement with an additional Five (5) year extension upon satisfactory performance as determined by both parties.³⁹

The Board relied on this recital language in denying Wingnuts' right to renew the term of the Agreement for an additional five years. The Agreement wholly fails to define “satisfactory performance as determined by both parties.” Furthermore, this recital language is ambiguous, vague, and inconsistent with the operative, non-ambiguous and binding terms of the Agreement and, therefore, is unenforceable and noncontrolling.

The operative body of the Agreement explicitly defines the term of the Agreement:

1. CONTRACT TERM: The Board does hereby lease the Airport property and Facilities to Wingnuts Aviation, LLC and enter into this contract Management Agreement for a new term beginning on February 13, 2014 and ending February 12, 2019 and Five (5) year extension ending February 12, 2024, upon the express terms and conditions as set forth by the parties herein. The Board agrees that, on payment of the rent and performance of the covenants and agreements on the part of Wingnuts Aviation, LLC to be performed hereunder, Wingnuts Aviation, LLC shall peaceably hold and enjoy the leased premises and all the rights and privileges of said Airport, its appurtenances and facilities as set forth herein.⁴⁰

³⁸ Ex. E.

³⁹ Ex. A, Recital, p. 1.

⁴⁰ Ex. A, ¶ 1 (emphasis added).

Clearly, this language provides for an initial term and a five-year renewal. The renewal is not conditional. Wingnuts has a right to the renewal. The renewal is an option exercisable solely by Wingnuts upon giving 60 days' notice. The operative body of the Agreement also explicitly provides that "[u]nless this agreement has been previously terminated during this Five (5) year term, or Five (5) year extension, Wingnuts Aviation, LLC agrees to give the Board at least 60 days prior written notice before the end of the term whether they are interested in renewing this agreement."⁴¹ Therefore, based on the clear and unambiguous language from the operative body of the Agreement, Wingnuts is automatically entitled to a five-year renewal of the Agreement at its option, to run through February 12, 2024, so long as the Agreement was not previously terminated and so long as Wingnuts gave the Board a sixty-day written notice of its intent to renew the Agreement. Only after 2024 would an additional renewal "be subject to the agreement of both parties and upon terms and conditions as they may then determine."⁴² In this case, the Agreement has never been terminated during the initial five-year term and Wingnuts gave the Board more than a sixty-day written notice of its intent to renew the Agreement through February 12, 2024. Thus, Wingnuts is entitled to the five-year renewal through February 12, 2024.

The basis for the Board's decision to deny Wingnuts' right to renew the Agreement – a unilateral finding that there has not been "satisfactory performance" as referenced in the recital of the Agreement – clearly contradicts the operative language in the body of the Agreement which provides for an automatic renewal so long as the Agreement is not terminated in the initial five-year term and so long as Wingnuts gives at least a sixty-written notice of intent to renew. Tennessee case law regarding contract construction clearly provides that "to the extent the agreement contains a contradiction or inconsistency, the operative provisions must prevail over the recitals." *In re*

⁴¹ Ex. A, ¶ 7.g.

⁴² Ex. A, ¶ 7.g.

Estate of Hillis, No. M2015-00404-COA-R3-CV, 2016 Tenn. App. LEXIS 148, at *21 (Tenn. Ct. App. Feb. 25, 2016) (citing *S.M. Williamson & Co.*, 95 S.W.2d 922, 924-25 (Tenn. 1936); 17A Am. Jur. 2d Contracts § 383). “Recitals only prevail if the operative provisions of the agreement are ambiguous.” *Id.* (citing *McClendon v. Crowder*, No. 03A01-9703-CV-00083, 1997 Tenn. App. LEXIS 516, 1997 WL 412120, at *3 n.4 (Tenn. Ct. App. July 24, 1997); *King v. Tubb*, No. 88-273-II, 1989 Tenn. App. LEXIS 65, 1989 WL 5446, at *3 (Tenn. Ct. App. Jan. 27, 1989); 17A Am. Jur. 2d Contracts § 383).

In this case, the recital language relied upon by the Board, in denying Wingnuts’ explicit right to renew the contract, contradicts and is inconsistent with the express terms and provisions of the operative body of the Agreement. Therefore, based on Tennessee case law, the operative body of the Agreement prevails over the recital language of the Agreement relied upon by the Board. Thus, the Board’s decision to deny Wingnuts’ right to renew the Agreement is invalid and the Board should be prohibited from denying Wingnuts’ right to renew the Agreement as set forth by the terms in the operative body of the Agreement.

II. The Board’s conduct constitutes a breach of contract.

Although the Board purportedly found that there was not “satisfactory performance” by Wingnuts under the terms of the Agreement, the Board breached the Agreement by wholly failing to give Wingnuts a thirty-day written notice that Wingnuts had “failed to perform, keep and observe any of the terms, covenants or conditions” set forth in the Agreement. Furthermore, it cannot be disputed that the Board breached the Agreement by wholly failing to give Wingnuts the required thirty days to cure any alleged failure “to perform, keep and observe any of the terms, covenants or conditions” set forth in the Agreement. Accordingly, the Board has indisputably

breached the Agreement and should be enjoined from denying Wingnuts' right to renew the Agreement.

III. The Board's conduct violates the Tennessee Open Meetings Act.

The Board's conduct related to the December 12, 2018 board meeting violates the Tennessee Open Meetings Act, Tennessee Code Annotated Section 8-44-101, *et seq.*, and any action taken during the December 12, 2018 board meeting is void and of no effect pursuant to Tennessee Code Annotated Section 8-44-105, which provides: "Any action taken at a meeting in violation of this part shall be **void and of no effect**; provided, that this nullification of actions taken at such meetings shall not apply to any commitment, otherwise legal, affecting the public debt of the entity concerned." TENN. CODE ANN. § 8-44-105 (emphasis added).

First, Mr. Johnson, a member of the Board, participated in the December 12, 2018 board meeting by electronic means and was otherwise not physically present for the meeting.⁴³ Mr. Johnson's vote constituted the vote necessary to establish a majority vote to deny Wingnuts' right to renew the Agreement.⁴⁴ However, Mr. Johnson failed to identify the persons present in the location from which he participated in the December 12, 2018 board meeting in violation of the Tennessee Open Meetings Act.⁴⁵ Tennessee Code Annotated Section 8-44-108(c)(3) provides:

Each part of a meeting required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting. **Any member participating in such fashion shall identify the persons present in the location from which the member is participating.**

TENN. CODE ANN. § 8-44-108(c)(3) (emphasis added). Furthermore, the notice for the Board's December 12, 2018 meeting failed to state that the meeting would be conducted permitting

⁴³ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 32.

⁴⁴ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 32.

⁴⁵ Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief, ¶ 32.

participation by electronic or other means of communication as required by Tennessee Code Annotated Section 8-44-108(c)(2), which provides: "Notices required by the Open Meetings Law, or any other noticed required by law, shall state that the meeting will be conducted permitting participation by electronic or other means of communication." TENN. CODE ANN. § 8-44-108(c)(2). Due to both violations of the Open Meetings Act, i.e. Mr. Johnson's failure to identify and the defective notice, the Board's vote to deny Wingnuts' right to renew the Agreement is void and of no effect. These violations cannot be disputed.

Last, and most egregiously, the outline of the December 12, 2018 board meeting that Mr. Ruth circulated amongst the Board members on or about December 10, 2018, reveals that the Board had already determined prior to the actual meeting the identity of the individual board member who would make the motion to deny Wingnuts' right to renew the Agreement and the identity of the board member who would second the motion. This outline indicates that Mr. Ruth (1) had secretly met with other board members in violation of the Tennessee Open Meetings Act, (2) determined in secret along with other board members the action of the Board to deny Wingnuts' right to renew the Agreement, and (3) then scripted with other board members the statements, motions, and votes that would be performed in the Board's public meeting.

Such conduct undermines the trust worthiness required for democratic government. Tennessee Code Annotated Section 8-44-101(a) provides: "The general assembly hereby declares it to be the policy of this state that **the formation of public policy and decisions is public business and shall not be conducted in secret.**" TENN. CODE ANN. § 8-44-101(a) (emphasis added). Although the Board held a public meeting in which a vote was made to deny Wingnuts' right to renew the Agreement, the **decision** to vote to deny Wingnuts' right to renew the Agreement was made in secret in advance of the December 12, 2018 board meeting. Additionally, Tennessee Code

Annotated Section 8-44-104(b) provides, in pertinent part: “All votes of any such governmental body shall be by public vote or public ballot or public roll call. **No secret votes**, or secret ballots, or secret roll calls shall be allowed.” TENN. CODE ANN. § 8-44-104(b) (emphasis added). For all intents and purposes, the Board members who voted to deny Wingnuts’ right to renew the Agreement voted in secret under the orchestration of Mr. Ruth. The votes during the December 12, 2018 meeting to deny Wingnuts’ right to renew the Agreement were nothing more than sham votes in an attempt to comply with the public voting requirements. Such behavior is an affront to the Tennessee Open Meetings Act and should not be tolerated. Indeed, as noted, Tennessee Code Annotated Section 8-44-105 dictates that the Board’s “decision” during the December 12, 2018 meeting to deny Wingnuts’ right to renew the Agreement is void and of no effect. Therefore, Wingnuts submits that the Board should be enjoined from denying Wingnuts of its right to renew the Agreement through February 12, 2024.

V. Injunctive relief is appropriate and warranted.

When considering whether to grant injunctive relief, a court should consider several factors. These factors are: “(1) the threat of irreparable harm to the plaintiff if the injunction is not granted; (2) the balance between this harm and the injury that granting the injunction would inflict on defendant; (3) the probability that plaintiff will succeed on the merits; and (4) the public interest.” *Moody v. Hutchinson*, 247 S.W.3d 187, 199 (Tenn. Ct. App. 2007) (citing *Mosby v. Colson*, 2006 Tenn. App. LEXIS 544, 2006 WL 2354763 (Tenn. Ct. App. Aug. 14, 2006)).

If injunctive relief is not granted, Wingnuts will suffer immediate and irreparable harm. For example, Wingnuts would be forced to relocate to another airport, if possible. However, airport properties near Springfield, Tennessee to which Wingnuts could be relocated are very limited, if existent at all. There is no guarantee that the customer base in which Wingnuts has amassed at the

Airport would be able and/or willing to take their business to another airport in the event Wingnuts was successful in relocating its business. Relocating its business would require Wingnuts to terminate employees and hire new employees, resulting in extensive employee training. Relocation of its business would also require Wingnuts to execute new vendor and supplier contracts, moving equipment, potential construction of new shop premises, and cancelation of time-sensitive scheduled customer maintenance services. The cancelation of services already scheduled would most likely lead to Wingnuts losing many of the customers with existing scheduled services. The loss of goodwill and an existing customer base would certainly cause Wingnuts to suffer immediate and irreparable harm.

Granting an injunction would not inflict harm on the Board. To the contrary, the Board would only benefit from Wingnuts' continued presence. Wingnuts would continue to perform its duties as set forth by the Agreement. Furthermore, the Board would continue to benefit from Wingnuts success in increasing fuel sales at the Airport and increasing the number of hangar tenants at the Airport. Just as Mr. Poole's audit found, the Board would continue to receive rent fees which include fees received through fuel sales, hangar fees, tie down fees, and Wingnuts' payment of \$500.00 per month. There is no evidence from which the Court can find that the City of Springfield or Robertson County will be harmed if the Court enters an injunction maintaining the status quo and permitting Wingnuts to continue to operate under the renewal term of the Agreement while this litigation continues.

Wingnuts has a strong likelihood of success on the merits. The Board relies on recital language from the Agreement, language of which contradicts and is inconsistent with the operative body of the Agreement, in denying Wingnuts' right to renew the Agreement. Additionally, although the Board purportedly found that there was not "satisfactory performance" by Wingnuts

under the terms of the Agreement, the Board breached the Agreement by failing to give Wingnuts a thirty-day written notice of any alleged breach and by failing to give Wingnuts thirty days in which to cure any alleged breach. Furthermore, the Board's "vote" to deny Wingnuts' right to renew the Agreement is clearly void and of no effect due to the Board and its members' clear violations of the Tennessee Open Meetings Act. Therefore, there is a strong likelihood that Wingnuts would prevail on the merits.

Lastly, the public interest is served by Springfield/Robertson County having an airport that is well-maintained and that provides exemplary aircraft maintenance services, as evidenced by the fact that Wingnuts has scheduled maintenance for its customers continuously through the next twelve months and continues to generate fuel sales tax revenue for the City of Springfield and Robertson County. Without the services and expertise provided by Wingnuts, the Board would be required to engage a new and unproven service provider for the Airport. This state of affairs is certainly not in the interest of the public.

Furthermore, Wingnuts asserts that the Board's acts will render a final judgment in favor of Wingnuts ineffectual. *See* Tenn. R. Civ. P. 65.04(2). In the event a temporary injunction is not granted, even a final judgment in favor of Wingnuts at a trial on the merits would be rendered ineffectual. By that time, Wingnuts would have already been forced to relocate to another airport property, assuming another property could be located. Relocating Wingnuts to another location would require termination of and hiring of employees, execution of new vendor and supplier contracts, moving equipment, potential construction of new shop premises, and cancelation of time sensitive scheduled customer maintenance services.⁴⁶

⁴⁶ Wingnuts currently has scheduled maintenance for numerous customers as far as twelve months in advance through the end of 2019. Wingnuts has also booked a substantially full maintenance schedule for customers through the end of April 2019.

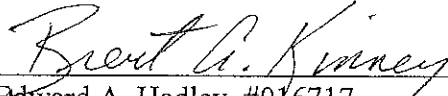
The Board would then be required to secure a new contract with a new Fixed Base Operator to operate the Airport. It is unlikely, however, that a new Fixed Base Operator would be willing to take the place of Wingnuts if there was a likely chance that this Court would find in favor of Wingnuts and force the new Fixed Base Operator to leave the Airport unexpectedly. Thus, it is likely that the Airport would have no Fixed Base Operator during the pendency of this action pending a final outcome. In that case, the public would be harmed by the Airport operating without a Fixed Base Operator as well as a decline in airport fees.

Even if a new Fixed Base Operator decided to replace Wingnuts knowing it would likely be forced to leave after final judgment in this matter was entered, this would also require new employees, new equipment, and new contracts with service vendors. Clearly, it would be impossible for Wingnuts to return to its current position even if final judgment were rendered in its favor. Attempting to put Wingnuts back in its current position would force the Board to breach any agreement with a new Fixed Base Operator and any new Fixed Base Operator would be forced to breach its contracts with service vendors. Ultimately, the Board's acts would render a final judgment in favor of Wingnuts ineffectual. Therefore, injunctive relief is appropriate in this matter.

CONCLUSION

In consideration of the foregoing, Wingnuts requests that the Board be enjoined from denying Wingnuts' right to renew the Agreement.

Respectfully submitted,



Edward A. Hadley, #016717

Brent A. Kinney, #024548

NORTH, PURSELL & RAMOS, PLC

414 Union Street, Suite 1850

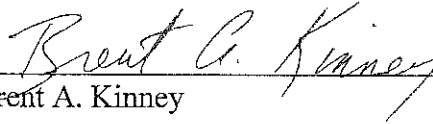
Nashville, TN 37219-1783

(615) 255-2555

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served with the Summons and Verified Complaint, Petition for Writ of Certiorari and Injunctive Relief.



Brent A. Kinney

SPRINGFIELD-ROBERTSON COUNTY AIRPORT
Springfield, Tennessee
2014

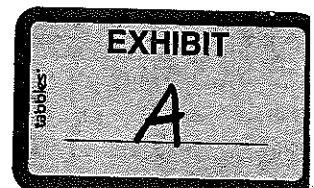
LEASE AND F.B.O. MANAGEMENT AGREEMENT

THIS AGREEMENT effective the 13th day of February, 2014, by and between
The SPRINGFIELD-ROBERTSON COUNTY JOINT AIRPORT BOARD, hereinafter
referred to as "the Board", and ANNA FERRARACCIO and CHRIS FERRARACCIO both, d/b/a
WINGNUTS AVIATION, and WINGNUTS AVIATION, LLC hereinafter referred to as
"Wingnuts Aviation, LLC" with reference to the SPRINGFIELD-ROBERTSON COUNTY
AIRPORT, hereinafter referred to as "the AIRPORT".

WHEREAS, The SPRINGFIELD-ROBERTSON COUNTY JOINT AIRPORT BOARD and
Wingnuts Aviation, LLC, enter into a Five (5) year Agreement with an additional Five (5)
year extension upon satisfactory performance as determined by both parties.

NOW, THEREFORE, the parties hereto agree as follows:

1. CONTRACT TERM: The Board does hereby lease the Airport property and
Facilities to Wingnuts Aviation, LLC and enter into this contract Management Agreement
for a new term beginning on February 13, 2014 and ending February 12, 2019 and Five (5)
year extension ending February 12, 2024, upon the express terms and conditions as set
forth by the parties herein. The Board agrees that, on payment of the rent and performance
of the covenants and agreements on the part of Wingnuts Aviation, LLC to be performed
hereunder, Wingnuts Aviation, LLC shall peaceably hold and enjoy the leased premises and
all the rights and privileges of said Airport, its appurtenances and facilities as set forth
herein.



2. LEASED PROPERTY: The property being leased is that property consisting of the Airport runway, taxi areas, hangar, maintenance and fuel areas, the operations center and all other improved property presently in use or developed at any time during the term of this contract and its extension as part of the Airport operation, which may be referred to herein as the "Airport Property".

3. RENT: The rates or charges for any and all activities and services customarily provided by a FBO operator shall be determined by Wingnuts Aviation, LLC. Such rates or charges shall be reasonable and be equally and fairly applied to all users of the services. Wingnuts Aviation, LLC shall pay to the Board: Six (6) cents per gallon on all aviation fuel dispensed, 40% of all storage fees on hangars, 10% of tie down fees, plus Five Hundred Dollars 500.00 per month. Wingnuts Aviation, LLC shall within 20 days following the end of each month, transmit to the Board a statement of the rentals, fees and charges collected by Wingnuts Aviation, LLC during said month, and shall pay to the Board all amounts due at that time. The Board has the right to review all supporting documentation. Unless otherwise specified herein, Wingnuts Aviation, LLC shall assume and be responsible for the every day operating expenses of the Airport.

4. WINGNUTS AVIATION, LLC RIGHTS UNDER AGREEMENT:

- a. The Board grants to Wingnuts Aviation, LLC as Fixed Based Operator (FBO) under the terms of this Agreement the right to operate the airport facility in accordance with these terms, including unrestricted access and ingress to and egress from the property for all purposes contemplated by this Agreement.
- b. Wingnuts Aviation, LLC may load and unload persons and property at said Airport by such means of conveyance, as Wingnuts Aviation, LLC may desire;

- c. Wingnuts Aviation, LLC may install and operate advertising signs on the Airport property, the general type, design and location of such signs to be subject to the approval of the Board;
- d. Wingnuts Aviation, LLC may install maintain and operate radio communications and such other equipment and facilities, in, on and about the premises herein leased as may be necessary or convenient to the operations. All such equipment and facilities that cannot be removed without doing damage to the property buildings or facilities of the Airport property shall remain and become the property of the Board.
- e. Wingnuts Aviation, LLC may conduct any business reasonably necessary to the proper operation of the Airport as customary and normal for a FBO.
- f. Wingnuts Aviation, LLC and their employees, customers, suppliers, licensees, invitees, and the general public, without charge, shall have use of the designated vehicular parking spaces located near the Administration Building.
- g. Wingnuts Aviation, LLC is permitted to have a charter service available for the general public.
- h. Wingnuts Aviation, LLC may conduct the training of personnel and the testing of aircraft and other equipment.
- i. Wingnuts Aviation, LLC may conduct the sale, disposal or exchange of aircraft, engines, accessories, and related equipment.

5. RESPONSIBILITIES: As part of their responsibilities, Wingnuts Aviation, LLC shall establish and/or continue:

- a. A system and equipment for the safe and customary take off, landing, unloading, taxi and parking of aircraft at the Airport;

- b. Assure that the runway and taxiways are properly lighted and maintain runway, taxiway, beacon, R.E.I.L and V.A.S.I. light bulbs. The Board shall be responsible for the cost of the bulbs and materials related to the aforementioned. The Board shall pay utility charges for the runway, taxiway, navigation lights, and beacon. All other utility costs to be paid by Wingnuts Aviation, LLC.
- c. A system and trained personnel for the FAA approved repair, maintenance and servicing of aircraft and related accessories and equipment based at or using the Airport;
- d. A system for the customary storage and sale of petroleum products, fuel, and other products for Airport users. The fuel farm is provided and will be maintained at the Board's expense.
- e. The coordination of maintenance and operation of an airplane hangar and storage system and facilities as made available by the Board for aircraft and other equipment. The cost of such maintenance will be borne by the Board.
- f. Keep clean the administration building, inside of hangar buildings and all other facilities and structures on the property. The cost of repairs and preventative maintenance to the buildings and structures will be borne by the Board.
- g. Establish and support or subcontract with a third party an in-flight training program at the Airport by providing, as a minimum, a certified flight training program as set out and required by the F.A.A. Section 91 for flight schools, and have appropriate aircraft available for rental.
- h. Maintain the following minimum hours of operation with, adequate, trained and efficient personnel to perform all duties herein:

Customer service, Fuel and Line Services: 8am – Official Sunset (weekdays)

9am – Official Sunset (weekends) on call otherwise (hours adjustable as required)

Maintenance: 9am – 5pm weekdays, on call otherwise with the exception of commonly recognized holidays.

- i. Provide a courtesy (without charges) car for the limited use of visiting pilots, passengers or the transportation thereof.
- j. Permit the formation and meeting of legitimate flying clubs to operate from the Airport.
- k. Provide a reasonable amount of lecture time and airport tours per year to the Robertson County School System regarding aviation and opportunities for the students in aviation related fields.
- l. Repair any damage to buildings and property caused by their employees.
- m. Obtain authorization from the Board to permit skydiving and/or parachuting within the airport traffic area.
- n. Keep and maintain the runways, taxiways, and parking ramp free and clear of any accumulation of dirt, debris, or other matter tending to interfere with their safe and proper use;
- o. Assure that the approach lights, navigational aids, and all other aviation equipment is properly operating and maintained;
- p. Keep and maintain all the premises free and clear of any growth of weeds grass, sprouts, bushes, dumps, garbage and/or other matter of similar or dissimilar character tending to render said premises unsightly, unsanitary or unsafe for use as an airport including mowing grass on the entire airport at least four times a year and mow in safety zones to maintain no more than 12 inches of growth.

- q. Wingnuts Aviation, LLC service as the FBO of the Airport shall comply with all Federal, State, County and City By-laws and ordinances in their operation, the Airport Board "Operations Code and Regulations" (Appendix A) Minimum Standards for Fixed Base Operations (Appendix B), and the rules and regulations of the Federal Aviation Administration in the operation of the Airport.

6. LIABILITY AND INSURANCE: The parties acknowledge that Wingnuts Aviation, LLC is leasing and operating the Airport as an independent third party contractor. Wingnuts Aviation, LLC shall maintain and furnish a copy to the Board of general liability insurance upon terms acceptable to the Board in the minimum amount of One Million Dollars (\$1,000,000) per occurrence, naming the Board as an additional insured. Wingnuts Aviation, LLC shall hold the Board harmless from any and all liability of any kind whatsoever, in regard to any accidents, injuries to persons, injuries to property, loss or defacing of any aircraft, equipment or vehicles at the Airport or arising from the use or management of the Airport.

7. TERMINATION: Either party may terminate this agreement upon the following conditions:

- a. If either party shall file a voluntary petition in bankruptcy or that proceedings in bankruptcy shall be instituted against either party if either party thereafter is adjudicated bankrupt or if a receiver of either parties' assets is appointed;
- b. Provided that either party gives 30 days written notice that the other party has failed to perform, keep and observe any of the terms, covenants or conditions herein and this breach is not cured within this 30 days, the non-breaching party may terminate this

agreement.

- c. The failure or refusal of the F.A.A. to grant to Wingnuts Aviation, LLC the right to operate into and from said Airport;
- d. The issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of said Airport for Airport purposes;
- e. The inability of Wingnuts Aviation, LLC to use said premises and facilities continuing for a longer period than thirty (30) days due to any law or any order, rule or regulation of any appropriate governmental authority having jurisdiction over the operations of Wingnuts Aviation, LLC or due to some casualty caused by nature;
- f. The assumption by the United States Government or any authorized agency thereof of the operation of said Airport.
- g. The parties acknowledge the potential difficulty by the Board to locate another approved FBO in the event that Wingnuts Aviation, LLC should cease their operation of the Airport. Unless this agreement has been previously terminated during this Five (5) year term, or Five (5) year extension, Wingnuts Aviation, LLC agrees to give the Board at least 60 days prior written notice before the end of the term whether they are interested in renewing this agreement. Any renewals after 2024 shall be subject to the agreement of both parties and upon terms and conditions as they may then determine.

8. ASSIGNMENT AND SUBLEASING: Wingnuts Aviation, LLC shall not at any time assign or sublease any of the rights or responsibilities contained herein to any other party without the prior consent in writing of the Board. This contract is specific to Wingnuts Aviation, LLC and if Wingnuts Aviation, LLC sells their business or ownership of Wingnuts Aviation, LLC otherwise changes, any new owner or change in ownership of Wingnuts

Aviation, LLC must be approved by the Board. Should Wingnuts Aviation, LLC be awarded this FBO contract, the Board consents to allowing Wingnuts Aviation, LLC the right to sublease the Flight Training and rental of Aircraft to a third party.

9. INSPECTION: Wingnuts Aviation, LLC hereby grants the authority to the Board, or its designee, the authority to inspect all areas of the Airport during normal operating hours and otherwise if exigent circumstances exist. The Board may designate a liaison party between the Board and Wingnuts Aviation, LLC.

10. AIRPORT RELOCATION: In the event the Board moves the Airport to a new and different location this lease shall terminate and the parties shall have no further obligations to each other. However, Wingnuts Aviation, LLC shall have the first right of refusal to enter into a new lease - management agreement with the Board for the operation of the new Airport.

11. NOTICES: Notice to the Board shall be sufficient if sent by registered or certified mail, postage prepaid, addressed to the Springfield-Robertson County Joint Airport Board, Attention: Board Chairman, P.O. Box 1125, Springfield, Tennessee, 37172. Notice to Wingnuts Aviation, LLC shall be sufficient, if sent by registered or certified mail, postage prepaid, addressed to Wingnuts Aviation, LLC, 197 Bagwell Road, Clarksville, Tennessee 37043, or to such other respective addresses as the parties may designate in writing from time to time.

12. MISCELLANEOUS:

a. Nothing in this contract is to be considered as restricting or prohibiting the Airport Board from leasing land or from granting operating rights to one or more firms

engaged in providing services to aircraft owners and users. Wingnuts Aviation, LLC shall not be obligated to provide service to, or maintenance of any structure erected by or for a third party which enters into a land lease with the Board. Terms and conditions agreed to in paragraphs 2 and 3 shall only apply if Wingnuts Aviation, LLC is providing services or maintenance to structures or party's which have engaged in third party agreements with the Airport Board.

b. All income generated by the Springfield-Robertson County Airport shall be kept separate by Wingnuts Aviation, LLC, sales and other taxes paid by Wingnuts Aviation, LLC and those amounts due the Board paid as set forth herein.

c. All copies of Purchase Orders, books of account and financial records pertinent to the operation of the Airport shall be properly maintained and shall at all times be available for inspection by a properly authorized auditor and/or other designee.

d. Should Wingnuts Aviation, LLC be awarded this contract as the FBO Operator, it will be at their discretion to purchase any remaining fuel from McCauley Aviation at a negotiated price, excluding any unusable fuel in the tanks. Wingnuts Aviation, LLC retains the right to have any existing fuel tested, at their expense, and have the quantity verified with a Board member present. If no agreement for said sale is reached between McCauley Aviation and Wingnuts Aviation, LLC, Wingnuts Aviation, LLC will not be obligated for the purchase of said fuel or the removal of same. If no agreement is reached, any remaining fuel, 100LL and Jet A, will be removed before the beginning of business February 13, 2014 at no cost to Wingnuts Aviation, LLC.

e. Should Wingnuts Aviation, LLC be awarded this contract as the FBO Operator,

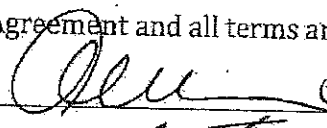
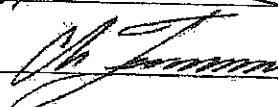
Wingnuts Aviation, LLC will have up to six (6) months to comply with this agreement in its entirety.

f. Should Wingnuts Aviation, LLC be awarded this contract as the FBO Operator, the Board will be present along with Wingnuts Aviation, LLC and McCauley Aviation representatives for a thorough walkthrough, inspection and inventory of all Airport assets and improvements on February 12, 2014. Any discrepancies or repairs noted will be resolved by McCauley Aviation or by the Board to the Board's satisfaction within thirty (30) days.

g. It is the intent and goal of the Airport Board to have continued development at the Springfield Airport. Although the progress of this development cannot be quantified in a specific time period any such development which produces income from rentable hanger space will be subject to the terms of section 2 and 3 above while this contract is in effect.

13. PERSONAL GUARANTY:


If this Agreement is entered into with a separate legal entity such as a corporation or LLC, that persons designated hereafter by a personal signature line, by his and her signature, do hereby unconditionally and personally guarantee full and complete performance of this Agreement and all terms and obligations herein.


 02-12-14 "Anna Ferraraccio, personally and individually"
and  02-12-14 "Chris Ferraraccio, personally and individually"


IN WITNESS WHEREOF, the parties have executed these presents by their duly authorized officers.

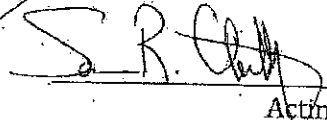
Wingnuts Aviation, LLC

Springfield-Robertson County
Joint Airport Board

 02-12-14
Anna Ferraraccio

 02-12-14
co Chairman

 02-12-14
Chris Ferraraccio

 02-12-14
Acting Co-Chairman



Wingnuts Aviation, LLC

December 11, 2018

VIA CERTIFIED MAIL and EMAIL

Springfield-Robertson County Joint Airport Board
Attention: Board Chairman
PO Box 1125
Springfield, TN 37172

Dear Mr. Ruth:

Per our contract with the Springfield-Robertson County Joint Airport Board effective February 13, 2014, Wingnuts Aviation, LLC is hereby exercising our five (5) year renewal extension as outlined in Section 7, paragraph (g) of the contract.

If the Springfield-Robertson County Joint Airport Board is interested in discussing any amendments to our current contract, we will entertain amendments and welcome discussions after the holidays.

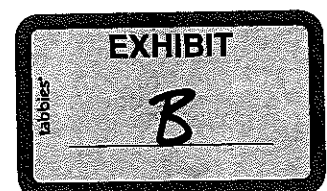
Merry Christmas and Happy New Year to all.

Sincerely,

Anna Ferraraccio
President

Email CC: Chris Simpkins
Neal Peterson
Marvin Smith
Kirk Johnson
Edison Guthrie
Betty Moore
Billy Vogle
Ann Schneider
Gina Holt
Roger Blackwood
Clyde Richert

4432 Airport Road – Springfield, TN – 37172



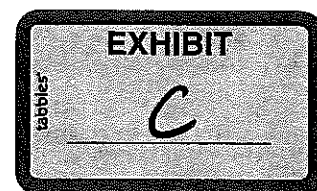
Chris Ferraraccio

From: Hawk Ruth <hawk@hawkruithgroup.com>
Sent: Monday, December 10, 2018 7:26 PM
To: Billy Vogle; Clyde Richert; Gina Holt; Ryan Martin; Edison Guthrie; Neal Peterson; Chris Simpkins; Marvin Smith; Margot Fosnes; Roger Blackwood; kirk Johnson; Betty Moore; Chris Ferraraccio
Subject: Airport Board Meeting Agenda 12 Dec 2018
Attachments: Airport Board Meeting 12 December.docx

To all above, here is the Agenda for our last 2018 Board Meeting.

Thank You All, for your terrific support and commitment to our Airport Board.
We have made a huge jump in Robertson County...to build the face of Springfield's future.
As we improve the quality of life for the people of this county.

R/ Hawk Ruth



Airport Board Meeting 12 December

Vote to not extend Wingnuts contract for another five years.

The motion will be from Neil Peterson with some reasons why we should not extend the contract.

Chris Simpkins will second that motion.

Under Roberts Rules there is a discussion and the Chairman will lead that discussion.

Only Board members allowed to speak during the discussion.

Points to be discussed:

-The current contract states: The Springfield Joint Airport Board and Wingnuts "entered into for a five 5 years Agreement with an additional Five 5 year extension upon satisfactory performance as determined by both parties."

? -Some of the past performances have caused dissension and differences between the Board and Wingnuts and some City and County officials. There have been contract discrepancies and failures by Wingnuts to meet the contract directions.

?-The fact that Wingnuts offered a contract adjustment also alienated Board members and City officials.

-Some of the requirements of the current contract required an airport sponsored flight school which included airplanes to be rented... did not happen.

-Wingnuts acquired another corporate hangar under another name owned by Wingnuts and without written permission from the Board as required by the contract. They used corporate #3 hangar for their own aircraft and overflow from their maintenance hangar.
-They also imposed their sixty percent refund on the hangar's fees all without airport board's permission.

-FBO's airport manager support... created a number of administrative issues. One example, by not recognizing airport maintenance grant to support our airport.

-Therefore, I believe there is sufficient reason not to extend Wingnuts contract due to their unsatisfactory performance.

-All in favor of not extending the FBO's contract for another five years say aye. Any opposed say No.

-Meeting adjourned.

1. Was given six months at the beginning of the contract to adhere to the contract. Failed to organize an airport flight school instructor and provide rental airplanes for use by the public.
2. Leasing another hangar for personal use and overflow of their maintenance without authority and written permission from the Board.
3. Then collecting sixty percent of their own rent?

Chris Ferraraccio

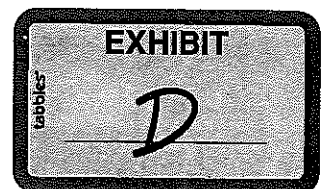
From: Hawk Ruth <hawk@hawkruithgroup.com>
Sent: Monday, December 10, 2018 7:41 PM
To: Billy Vogle; Clyde Richert; Gina Holt; Ryan Martin; Edison Guthrie; Neal Peterson; Chris Simpkins ; Marvin Smith; Margot Fosnes; Roger Blackwood; kirk Johnson; Betty Moore; Chris Ferraraccio
Subject: Airport Board Meeting Agenda 12 Dec 2018
Attachments: Airport Board Meeting Agenda12,Dec,2018.doc

My Apologies...I sent the wrong attachment...please disregard the previous email.

.....

To all above, here is the Agenda for our last 2018 Board Meeting.
Thank You All, for your terrific support and commitment to our Airport Board.
We have made a huge jump in Robertson County.to build the face of Springfield's future.
As we improve the quality of life for the people of this county.

R/ Hawk Ruth



SPRINGFIELD – ROBERTSON COUNTY JOINT AIRPORT BOARD MEETING

12 DECEMBER 2018 8:00 AM

Reports:

Approval of Minutes from, 10 October Board Meeting

TREASURER'S REPORT:

By Chris Simpkins

Updates / Review on the Airport Board accounts

Updates / Review on the terminal Accounts

Any outstanding bills to be paid?

FBO MANAGER'S REPORT:

By Chris Ferraraccio

A-DOT's Schedules & Year End Reports

Repairs to Hangar Skylights

The Delivery of the New Tractor and Zero Turn Mower

Status of old Tractor and fix the current old Zero Turn Mower

TERMINAL COMMITTEE REPORT:

Architects status Report as of 28 Nov 2018

UNFINISHED BUSINESS:

Status of Bell family Fundraising effort

Status of Wingnuts Contract

Old Business:

AIRPORT BOARD ADGENDA

REPORT

*TREASURER'S

REPORT

*FBO MANAGERS

*UNFINISHED

BUSINES

*OLD BUSINESS

*NEW BUSINESS

"The Springfield –
Robertson County

Airport is the Gateway to
our community. Our
goal is to make it a place
which will attract new
business as well as
inspire and grow
aviation"

LAW OFFICES
RICHERT DILLIHA
PLLC

Clyde W. Richert III
Gary L. Dilliha
Jarod C. Richert

516 South Main Street
Springfield, TN 37172
Telephone 615.384.8774
Facsimile 615.384.6708
www.richertdillihalaw.com

December 12, 2018

VIA EMAIL AND US MAIL

Wingnuts Aviation, LLC
Attn: Ms. Anna Ferraraccio
Mr. Chris Ferraraccio
PO Box 1125
Springfield, TN 37172
anna@wingnutsaviation.net

Re: Airport Contract

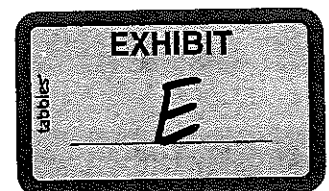
Dear Mr. and Mrs. Ferraraccio:

As legal counsel to the Springfield – Robertson County, Tennessee Joint Airport Board (the “Board”), I have been requested by Board Chairman Henry Ruth to send this correspondence to follow up the meeting of this morning.

It is the Board’s interpretation that the current 5 year contract will terminate by its own terms on February 14, 2019. The Board believes that any renewal of that Contract on its original terms is subject to a joint finding of satisfactory performance of the current Contract and that determination must be made by both the Board and Wingnuts. Further since any renewal requires this affirmative finding by both parties it is likely that just silence by either party would not result in any automatic renewal.

The Board is in receipt of your correspondence of yesterday which in summary states that Wingnuts is “exercising our five (5) year renewal extension”. Respectfully there is no such renewal provision in the Contract. Paragraph 7 (g) was placed in the Contract such that the Board could be advised ahead of time (60) days as to whether Wingnuts was interested in a renewal of the Contract as written, but again any renewal must be based upon an affirmative finding of satisfactory performance by BOTH parties.


As the Board voted today that there has not been satisfactory performance, the Contract would not be renewed upon its current terms when it expires on February 14, 2019.



However, I have also been requested by Chairman Ruth to indicate that the fact that the Contract would not be renewed on its same original terms does not mean that the Board is not willing to discuss the issues related to the current contract performance and the terms of a possible new Contract. Further, to the extent a new Contract is not negotiated, Wingnuts is certainly welcome to participate as a potential contracting party with the Board going forward.

Obviously if Wingnuts is interested in having such discussions the earlier those could take place would be advisable and if the Board hears nothing further from Wingnuts they will accept that as a lack of interest in such discussions.

Sincerely,



Clyde W. Richert III

CWRIII: cl

JOHN R. POOLE, CPA
CERTIFIED PUBLIC ACCOUNTANT

134 NORTHLAKE DRIVE
HENDERSONVILLE, TN 37075

(615) 822-4177

To the Springfield-Robertson County Airport Board
Springfield, Tennessee

Dear Board,

I was asked by the Board Chairman (on behalf of the Board) to review certain procedures related to Section 3 of the Lease and F.B.O. Management Agreement between the Springfield-Robertson County Airport Board and the F.B.O. (Wingnuts Aviation, LLC). Section 3 of the Lease and F.B.O. Agreement states:

- 1) That the FBO will pay the Board six (.06) cents per gallon on all aviation fuel dispensed,
- 2) That the FBO will pay 40% of all storage fees on hangars, 10% of tie down fees,
- 3) And \$500.00 a month.

As a verification of these amounts I selected six months during 2018 and agreed to the following. (The FBO was not aware of which months I was going to choose until we met for the testing).

- 1) The FBO paid the Springfield-Robertson County Airport Board six (.06) cents on all fuel purchased. This is different than the contract but would appear to favor the Board. We reviewed the amounts purchased noting amounts appeared reasonable (higher in warmer months and lower in cooler months, and agreed that the Springfield-Robertson County Airport Board was paid these amounts in the month the fuel was purchased.
- 2) The FBO paid 40% of all storage fees on hangars and 10% of tie down fees. We reviewed the census of hangars and amounts charged per location. We agreed the calculated amounts. Noting no difference between the calculated amount and the amount received by the Springfield-Robertson County Airport Board.
- 3) The FBO made the monthly \$500 a month fee.

In my review it appeared the FBO met all of the requirements related to Section 3 of the Management Agreement between the Springfield-Robertson County Airport Board.

If there are any questions related to the contents of the is letter, please call me at 615.822.4177.

Sincerely,



John R. Poole, CPA

