



County of Los Angeles

# Regional Planning Commission Airport Land Use Commission

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**Commissioners**

David W. Louie, Chair  
Esther L. Valadez, Vice Chair  
Harold V. Helsley  
Curt Pedersen  
Pat Modugno

July 17, 2013

**TO:** David W. Louie, Chair  
Esther L. Valadez, Vice Chair  
Harold V. Helsley, Commissioner  
Curt Pedersen, Commissioner  
Pat Modugno, Commissioner

**FROM:** Mark Child  
Assistant Administrator, Current Planning Division

**SUBJECT: Commission Training  
July 24, 2013, Agenda Item 6**

Please see the attached training materials regarding ALUC's responsibility to review appeals from local agencies relative to impasses over airport planning.

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## **Commission Training**

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### **ALUC Responsibility to Review Appeals from Local Agencies Relative to Impasses Over Airport Planning**

The Public Utilities Code (PUC) assigns Los Angeles County Airport Land Use Commission (ALUC) **two distinct roles** in airport land use compatibility planning.

- Its primary role is to **prepare and administer airport land use compatibility plans** (ALUCP) for the public use airports in the county. All ALUC in the state serve in this role.
- Its second role is to **arbitrate impasse situations** that develop between public agencies involved in airport planning. This role is specific to Los Angeles County and is described in PUC Section 21670.2(a).

Relevant to its primary role is Section 21674. This section is provided below and the bolded sentences in particular are important to understand for the purposes of this training:

The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

- (a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses.
- (b) **To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.**
- (c) **To prepare and adopt an airport land use compatibility plan pursuant to Section 21675.**
- (d) **To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.**
- (e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.
- (f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

Along with the duties above that all ALUC share, Los Angeles County is specifically mentioned in Section 21670.2(a) because it is unique in being the only ALUC where the county planning commission serves as ALUC, and that it has an added duty that it must undertake. Below is the PUC section relevant to this additional duty:

21670.2.

- (a) Sections 21670 and 21670.1 do not apply to the County of Los Angeles. In that county, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. **In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission**

**by any public agency involved.** The action taken by the county regional planning commission on an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.

To be clear how the two roles differ, this training summarizes the ALUC's plan preparation and administration role and in more detail explains its role in impasse situations.

### **Plan Preparation and Administration**

The ALUC must prepare and administer Airport Land Use Compatibility Plans (ALUCP)s and review updates of local agency plans or specific projects until such time as a determination of ALUCP plan consistency/override has occurred.

#### Prepare ALUCPs

The process involves bringing together the long range plans for an airport with the long range plans for the land use jurisdictions that surround airports to form an ALUCP. The ALUCP establishes the level of compatibility that future uses near airports will need to maintain. An example of this process is the 1991 Los Angeles County Comprehensive Land Use Plan (CLUP), also known as the Airport Land Use Plan, the Fox Airfield ALUCP and the current effort to update Brackett Airfield with a new compatibility plan.

#### Review of local agency plans and the ALUCP for consistency

The ALUC is frequently called upon to review local agency plans that are being created if they require a legislative amendment that could potentially affect the consistency of local agency plans with the negotiated level of airport compatibility contained in the ALUCP. Any time a local agency amends or updates its plans, it triggers ALUC review to ensure the revised document remains consistent with the adopted ALUCP. In 2013, The Los Angeles County ALUC served in this capacity when it reviewed the City of Burbank General Plan update and the LAX SPAS project

### **Arbiter of Impasse Situations (Appeals)**

In instances where a public agency reach an impasse related to an airport planning decision of another public agency, the Los Angeles County ALUC may be called upon to hear an appeal. The word appeal is used in the PUC. It is important to consider its meaning in this context because it affects the scope of the term "airport planning" and how ALUC must view the matter:

Appeal can mean - *an earnest plea*  
- *to plead with, especially in order to persuade*  
- *ask urgently*

It can also mean - *a legal proceeding by which a case is brought before a higher court for review of the decision of a lower court*

(Merriam-Webster Dictionary [www.merriam-webster.com](http://www.merriam-webster.com))

As a land use commission, the ALUC is familiar with reviewing legal proceeding-type appeals. This is not however its role in impasse situations. The PUC does not intend that appeal is of the type described as a legal proceeding because ALUC does not have a higher review body, nor does it act as a higher body for a lower decision maker. The ALUC does not review its own decision nor is that how appeals function in a legal setting. The trigger for an

ALUC impasse hearing is not an underlying ALUC action, rather it is an underlying local agency planning action.

In impasse situations, appeal is a plea, which places the ALUC in the role of arbiter. A form of plea is the appropriate use of the word appeal in this context because of the ALUC's role in an impasse situation: the ALUC coordinates planning at state (PUC) and local level (airport master plans, city general plans and zoning ordinances). An impasse appeal can be described as a request to review an airport planning decision through the lens of airport land use compatibility, with which the ALUC has expertise. A review in this capacity can provide a valuable third party opinion on an airport planning matter and offer a perspective that may not have been considered through the required planning and approval processes.

It is important to consider that for an impasse to exist, the PUC implies that a decision of a local agency has caused an impasse. Section 21670.2(a) begins, *In instances where impasses result relative to this [Airport] planning, an appeal may be made to the county regional planning commission ....* It goes on to state that, *The action taken by the county regional planning commission on an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.* Planning in this context means *planning decision*. This is the case because the overrule process can only apply to a decision that is made by another agency. It need not be a decision with which the ALUC has had any past involvement.

### **ALUC Experience with Impasse Situations**

Since its formation in 1991, the Los Angeles County ALUC has reviewed only one impasse. That was in 2005, and it resulted from disagreements over the long range planning for LAX airport.

In this appeal there were four issues, capacity limits at LAX, regional approach to airport planning, consistency with the ALUCP and airport security. The capacity and regional issues were considered, but the ALUCP and security issues were not because they were outside ALUC purview or areas that may be considered through an impasse appeal. Section 21670.2(a) identifies the permissible impasse areas as those related to *coordinating airport planning of public agencies*. Security is considered airport operations, which ALUC is expressly forbidden from considering.

Related to ALUCP consistency, the appealing parties asked ALUC to opine on an overrule decision that was made by the City of Los Angeles. The request was denied because the overrule process used by the City followed correct procedure as stipulated in the PUC. The security issue was denied because it was not within ALUC purview.

The remaining two issues were analyzed and ALUC found that an impasse did exist resulting from approval of the LAX Master Plan. ALUC found that approval of the LAX Master Plan as it was proposed at that time would compromise the ability of surrounding jurisdictions to do land use planning in a coordinated way with the airport because the airport and land use jurisdictions had not negotiated and coordinated their efforts to minimize the public's exposure to the health and safety impacts from the airport.

The affected parties filed a law suit against the City of Los Angeles which led to settlement negotiations. The negotiations ended in a stipulated settlement agreement. The

agreement resolved the impasse situation and the ALUC was able to rescind its determination. This meant the City did not need to overrule the ALUC to be able to move ahead with the project.

It is important to note that for impasse situations the scope of airport planning that ALUC may review is broader and beyond what it considers when preparing and administering ALUCPs.

Attachments:

2005 ALUC Impasse Appeal Staff Report

2005 ALUC Impasse Appeal Findings

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**LOS ANGELES COUNTY AIRPORT LAND USE COMMISSION**

STAFF ANALYSIS

PROJECT NUMBER R-200500033 (2,4)

AVIATION CASE RAV200500001  
AVIATION CASE RAV200500002

**IMPASSE APPEALS REGARDING THE  
LAX MASTER PLAN PROGRAM**

March 24, 2005

**PROJECT NO. R2005-00033-(2,4)**  
**AVIATION CASE NO. 2005-00001- EL SEGUNDO APPEAL**  
**AVIATION CASE NO. 2005-00002- COUNTY OF LOS ANGELES APPEAL**

**EXECUTIVE SUMMARY**

In Los Angeles County, the County Regional Planning Commission has the responsibility for acting as the Airport Land Use Commission (ALUC) pursuant to provisions of the State Aeronautics Act (California Public Utilities Code Section 21670, et seq.).

The ALUC has the unique responsibility to hear and act upon appeals related to airport planning impasses between public agencies. This authority is specified in the State Aeronautics Act, Public Utilities Code (PUC) Section 21670.2.

Two appeals have been submitted to the ALUC under the provisions set forth in PUC Section 21670.2, one from the City of El Segundo and the other from the County of Los Angeles. These public agencies have informed the ALUC that they have each reached an impasse with the City of Los Angeles over specific issues related to that city's decision to approve the LAX Master Plan Program.

Pursuant to the State Aeronautics Act, the ALUC has the responsibility to coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare. The ALUC's review of the appeals considers whether the airport planning impasse issues presented by the appellants are consistent with the broad statutory purposes of the State Aeronautics Act. The ALUC is required to review the appellants' specific impasse issues and determine if the airport planning proposed by the LAX Master Plan Program is consistent with the purposes of the State Aeronautics Act.

**Staff recommends that the ALUC: a. UPHOLD the appeals submitted by the City of El Segundo and one of the appeal issues submitted by the County of Los Angeles, and b. DENY two of the County's appeal issues .** The recommended actions on each appellant's specific issues are summarized as follows:

**Regarding Aviation Case RAV2005-00001- Appeal submitted by the City of El Segundo:**

Issue 1 **Capacity – uphold** appeal – LAX Master Plan Program is inconsistent with Section 21670(a)(1)

Issue 2 **Regional Approach – uphold** appeal – LAX Master Plan Program is inconsistent with Section 21670(a)(2)

**Regarding Aviation Case RAV2005-00002 - Appeal submitted by the County of Los Angeles:**

Issue 1 **Consistency with the CLUP, Noise and Safety – deny** appeal, No ALUC authority on matter

Issue 2 **Security Issues – deny** appeal, No ALUC authority on matter

Issue 3 **Regional Approach – uphold** appeal – LAX Master Plan Program is inconsistent with Section 21670(a)(2)

## I. THE ALUC HAS THE STATUTORY AUTHORITY TO HEAR APPEALS

The Los Angeles County Airport Land Use Commission (ALUC) has the special authority to consider appeals related to airport planning impasses between public agencies. This authority was established in the State Aeronautics Act, Public Utilities Code (PUC) Section 21670.2, which states in part:

*Sections 21670 and 21670.1 do not apply to the County of Los Angeles. In that county, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission by any public agency involved. The action taken by the county regional planning commission on such an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.*

To formalize its operating procedures, on December 1, 2004, the ALUC adopted the Los Angeles County Airport Land Use Commission Review Procedures. These procedures explain the impasse appeal process and how an appeal case will be reviewed. These procedures define "impasse" as: *Any significant unresolved issue between the appellant public agency and the public agency proposing the project regarding proper airport planning as it relates to the project at issue.* In this case, the project at issue is the LAX Master Plan Program.

## II. LAX MASTER PLAN PROGRAM BACKGROUND

On August 25, 2004, at the request of the City of Los Angeles and pursuant to the Aeronautics Act, the ALUC reviewed the LAX Master Plan Program and determined that it was inconsistent with the County's CLUP. The Aeronautics Act provides the airport agency with the ability to overrule a decision made by the ALUC provided they follow a prescribed process that involves making findings that the planning project is consistent with the purposes the Act. On October 20, 2004, the City of Los Angeles City Council proposed to overrule the ALUC consistency determination and provided draft findings for the ALUC to review. The ALUC responded on November 17, 2004 by issuing comments in opposition to the LAX Master Plan as it related to health and safety policies in the CLUP. On December 7, 2004 the inconsistency determination was overruled and the LAX Master Plan Program was adopted by a 12-3 vote of the Los Angeles City Council, which met the statutory requirement for a two-thirds vote for this action.

## III. APPEALS RECEIVED FROM THE CITY OF EL SEGUNDO AND THE COUNTY OF LOS ANGELES

The ALUC received two appeals within 30 days of the date of the Los Angeles City Council's final decision on December 7, 2004 on the LAX Master Plan Program, which

is within the time limit established for receiving appeals by the ALUC pursuant to the ALUC Review Procedures, Chapter 2, Section 5.2.2. Appeals were received from the City of El Segundo and the County of Los Angeles, and contain the documentation and fees required by Section 5.3 et seq. of the ALUC Review Procedures. These public agencies have informed the ALUC that they have each reached an impasse with the City of Los Angeles over that city's decision to approve the LAX Master Plan Program.

#### **IV. SUMMARY OF APPELLANT ISSUES**

The two appeals relate to disagreements that have resulted in impasses over airport planning by the City of Los Angeles regarding the LAX Master Plan and its associated actions, referred to in its entirety as the LAX Master Plan Program. To present the issues clearly and efficiently, the analysis of the two appeals has been combined in this report. The impasse issues fall within four topics: a) airport capacity, b) regional approach to airport planning, c) consistency with the Los Angeles County Comprehensive Land Use Plan (CLUP) and d) airport security.

##### **a. Airport Capacity**

The LAX Master Plan Program presumes that by limiting the number of aircraft gates the airport's capacity will not exceed 78.9 million annual passengers (MAP). The City of El Segundo believes that this is an inadequate capacity control and a dispute over airport capacity between the City of Los Angeles and the City of El Segundo has reached an impasse.

The present maximum capacity of LAX is generally agreed to be 78.9 MAP because of the present, limited ground access system. Even if gates are added, terminals enlarged and runways reconfigured, it would not be possible to accommodate more than 78.9 MAP with the present ground access system. The present number of gates at LAX is 115 plus 48 remote stands (for a total of 163 gates). Although the LAX Master Plan Program plans to limit development to 153 gates as a means to constrain MAP, there are a number of improvements to the ground access system that would accommodate a greater number of passengers.

Based on the findings of an aviation capacity and design consultant, the City of El Segundo disagrees with the capacity constraints approach taken in the LAX Master Plan and believes the capacity limits are not realistic given the proposed airport design and that a potential capacity of 89 MAP could be accommodated under the LAX Master Plan Program. The basis of this claim is that the constraining factor, ground access, will be removed allowing increased utilization of gates due to facility improvements, such as runway realignments, increased parking, expanded terminal areas and ground access improvements.

In addition, if gates could effectively be used to constrain capacity, the City of El Segundo has concerns that safeguards are not in place to prevent more than the allowed number of gates (153) from being used at intermediate phases in the

implementation of the Master Plan. The Master Plan only restricts the number of gates in the final phase of development when all facilities have been developed.

The City of El Segundo believes the potential discrepancy in passenger volume would translate to a greater noise burden on their city than has been recognized and planned for through the LAX Master Plan Program. Realignment of the southernmost runway (to move 50 feet closer to the City of El Segundo) also concerns the City of El Segundo because it introduces new safety impacts that they believed have not been adequately planned.

#### **b. Regional Approach to Airport Planning**

Both the City of El Segundo and the County of Los Angeles have reached an impasse with the City of Los Angeles over a regional approach to planning airport facilities. The City of El Segundo argues that if the demand for increases in air travel is met with a greater emphasis on other airports in the region, significant capacity increases at LAX would not be necessary. Both the City of El Segundo and Los Angeles County believe that the LAX Master Plan Program concentrates airport facilities at one location, LAX, and therefore is not the orderly development of airports the Aeronautics Act intends.

Both the City of El Segundo and Los Angeles County disagree with the City of Los Angeles over the LAX Master Plan Program being orderly airport expansion or development. The appellants describe the issue of orderly expansion and development of airports in terms of consistency with the Aeronautics Act.

#### **c. Consistency with the Los Angeles County Comprehensive Land Use Plan (CLUP)**

The County of Los Angeles requests that the ALUC consider the inconsistencies between the CLUP noise and safety policies and mapped impact areas and the LAX Master Plan Program in their impasse appeal. The County asserts that the ALUC continues to have authority in the overrule process and can overturn the overrule decision made by the Los Angeles City Council through the impasse appeal process.

#### **d. Airport Security**

The County of Los Angeles has raised the issue of security and requested that the City of Los Angeles refrain from taking a final action on the LAX Master Plan until the results of a Rand Corporation study on airport security are released. The Rand study is focused on the security aspects of the proposed Ground Transportation Center (GTC).

### **V. ANALYSIS OF THE IMPASSE ISSUES**

The ALUC Review Procedures in Section 5.5 (ALUC's Possible Actions) identify the standard that will be used to govern its action on an impasse appeal. That standard is whether or not the airport planning being appealed is consistent with Article 3.5 of Chapter 4 of the Aeronautics Act. PUC Section 21670 (a) provides guidance regarding the statutory purposes of the State Aeronautics Act, which specifically states:

(a) *The Legislature hereby finds and declares that:*

(1) *It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669<sup>1</sup> and to prevent the creation of new noise and safety problems.*

(2) *It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.*

The powers and duties of the ALUC are contained in PUC Section 21674. Of special note are the ALUC's responsibilities contained in subsection (b):

*To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.*

The ALUC must consider the impasse issues presented by the appellants for consistency with the broad statutory purposes of the State Aeronautics Act in relation to the ALUC's prescribed powers and duties.

The following analysis relates the issues that have been raised by the appellants to the powers and duties of the ALUC:

**a. Airport Capacity**

The disagreement between the City of El Segundo and the City of Los Angeles over future airport operations results in potentially unplanned airport impacts in the areas surrounding the airport. This is of concern to the ALUC because future airport operations that exceed what has been planned in the LAX Master Plan Program will result in potentially inappropriate development in the area surrounding the airport. This is likely to lead to conflicts between local jurisdictions, property owners and the airport.

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<sup>1</sup> PUC Section 21669 - The department (State of California, Department of Transportation, Division of Aeronautics) shall adopt noise standards governing the operation of aircraft and aircraft engines for airports operating under a valid permit issued by the department to an extent not prohibited by federal law. The standards shall be based upon the level of noise acceptable to a reasonable person residing in the vicinity of the airport

The Aeronautics Act recognizes that noise and safety impacts cannot be completely avoided in airport planning and for this reason the ALUC's compatibility planning process brings together the affected jurisdictions to mutually-agreeable impact levels. This type of coordinated planning between jurisdictions minimizes impacts because the airport's interests are protected while local jurisdictions, understanding the noise and safety impacts that will occur from the airport, plan accordingly and protect the interests of its constituents.

Approving the LAX Master Plan Program before agreement is reached with surrounding jurisdictions on the limits of aircraft operations creates the potential for new noise and safety impacts to be introduced without adequate planning or mitigation. The City of El Segundo's concern that there is a discrepancy with the planned noise and safety impacts and those that would result from increased, unplanned airport operations is acknowledged as an ALUC concern. If the two jurisdictions do not agree on the impacts, planning for those impacts will not be coordinated and the purposes of the Aeronautics Act are not achieved.

The City of El Segundo is concerned that the realignment of the southernmost runway and shifting of the RPZ to include a residential building will create land use incompatibilities that have not been mitigated. The LAX Master Plan does not acknowledge this safety issue and, therefore, leaves impacts unplanned and unmitigated. The same compatibility issue as mentioned above regarding jurisdictions agreeing on airport impacts apply in this case. Without a coordinated planning approach the purposes of the Aeronautics Act are not achieved.

PUC Section 21670(a)(1) requires that airports be developed in an orderly manner so as to promote the overall objectives of the California airport noise standards and to prevent the creation of new noise and safety problems. For the reasons explained above, the appellant has demonstrated that the LAX Master Plan will not avoid creating new noise and safety problems as required because of the potentially unplanned airport growth associated with that capacity. Approval of the LAX Master Plan Program while the MAP issue remains unresolved prevents the airport land use compatibility planning described in this section from being accomplished.

#### **b. Regional Approach to Airport Planning**

The Aeronautics Act assigns the ALUC the responsibility to coordinate orderly development of airports within the County. The ALUC role in orderly airport planning and development would logically include coordinating with jurisdictions on preferred locations of airport facilities and expansions with regard to surrounding land use compatibility.

The Act does not require that airports be planned with a distribution of facilities over the region. Although the Act does not provide a distinction between airports in urban areas and those that are surrounded by predominantly undeveloped land, it recognizes the right to continue uses that are existing and incompatible and places those uses outside

the area of ALUC concern. To achieve maximum airport land use compatibility, the City of Los Angeles should have realistically considered airport expansion in less developed areas. But the City did not, in spite of the fact that it owns an airport located in a primarily undeveloped area, Palmdale Regional Airport in the Antelope Valley. The LAX Master Plan Program does not adequately evaluate potential growth of commercial air usage either in airports the City of Los Angeles owns or at other feasible sites within the region.

A regional approach to airport planning that provides for the growth of aviation facilities in undeveloped or less developed areas, such as Palmdale Regional Airport, where airport land use compatibility planning can be more effective would be consistent with the purposes of the statute. This does not, however, preclude the possibility of providing airport facilities in urban areas provided that the public's exposure to excessive noise and safety hazards is minimized.

Section 21670(a)(2) requires that public health safety and welfare be protected by ensuring orderly expansion of airports and adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around airports. To be consistent with this section of the Act, the expansion of LAX would need to include a realistic regional approach to focus future airport expansion and development in less developed areas where the potential for airport land use compatibility planning would be most effective and would minimize the public's exposure to excessive noise and safety hazards.

**c. Consistency with the Los Angeles County Comprehensive Land Use Plan (CLUP)**

The ALUC does not have the authority to compel the City of Los Angeles to reconsider its overrule of the CLUP inconsistency finding. For this reason, issues related to the CLUP consistency determination cannot be addressed further through the impasse appeal. During that overrule process, by resolution, the ALUC issued comments in opposition to the LAX Master Plan as it relates to health and safety policies in the CLUP and opposed the City's overrule. The PUC gives the ALUC this right and requires that the overruling agency consider those comments before taking final action on the overrule.

**d. Airport Security**

The topic of airport security is not within the ALUC powers and duties and therefore cannot be reviewed under the impasse appeal.

**VI. CONCERNS**

It is staff's opinion, after carefully reviewing and considering the impasse issues, that airport land use compatibility planning cannot function in urban areas if airport planning does not include negotiation and coordination with surrounding jurisdictions. A balance is needed between the objectives of the airport and the needs of the surrounding

communities. When jurisdictions agree on activity and impact levels and plan using the same assumptions both take responsibility to minimizing the public's exposure to health and safety impacts from the airport.

Final approval of the LAX Master Plan Program will position the plan as the guiding planning document until 2015 (the LAX Master Plan planning horizon). It is important that the airport respect the intent of the Aeronautics Act and participate in good faith to achieve a solution that can be accepted by surrounding jurisdictions. The potential discrepancy in impact areas has implications for the ALUC process. Discrepancies between airport plans and local jurisdictions' general or community plans would impair the ALUC's ability to fulfill its statutory responsibility to coordinate the planning for the areas surrounding each public use airport. It is important that jurisdictions surrounding the airport agree on the assumptions made in the Master Plan because they must plan appropriately for future airport compatible uses.

Orderly development as it relates to the ALUC's powers and responsibilities refers to the ALUC land use compatibility planning process. The process is to develop compatibility plans and consider land use issues surrounding the airport. By following this process, orderly airport expansion and development is promoted. If the City of Los Angeles avoids negotiating with affected jurisdictions, the orderly airport expansion promoted by the Aeronautics Act will not be achieved and would be in conflict with the purposes of the Act.

## **VII. PUBLIC COMMENT**

The ALUC has received three letters regarding the appeals: 1) a letter from R. Austin Wiswell, Chief of the Division of Aeronautics with the California Department of Transportation, dated January 28, 2005, 2) a letter from Carlyle W. Hall, Jr. an attorney with Akin Gump Strauss Hauer & Feld, representing the City of Los Angeles, dated February 25, 2005, and 3) an additional letter from the same, dated February 28, 2005. These letters were sent to you on March 17, 2005, along with two letters from the staff dated March, 8, 2005 (response to Mr. Wiswell), and March 15, 2005 (response to Mr. Hall).

There have been no additional public comments received regarding the appeals. Public hearing notices were sent to approximately 100 public agencies and individuals, including local jurisdictions, airport managers, community groups and other interested individuals. The legal notice of public hearing was advertised in three newspapers of general circulation in the county and local area: the Los Angeles Sentinel, the Daily Breeze, and La Opinion.

## **VIII. SCHEDULE FOR ALUC ACTION**

In conformance with the adopted ALUC Review Procedures, the impasse appeal must be completed within 90 days of receiving a complete application. The date the appeals were considered complete was January 30, 2005 and therefore final action must be taken on these appeals no later than April 30, 2005.

**IX. RECOMMENDATIONS**

**Staff recommends that the ALUC take the following action regarding Aviation Case RAV2005-00001- Appeal submitted by the City of El Segundo:**

- Issue 1 **Capacity – uphold** appeal – LAX Master Plan Program is inconsistent with Section 21670(a)(1)
- Issue 2 **Regional Approach – uphold** appeal - LAX Master Plan Program inconsistent with Section 21670(a)(2)

**Staff recommends that the ALUC take the following action regarding Aviation Case RAV2005-00002 - Appeal submitted by the County of Los Angeles:**

- Issue 1 **Consistency with the CLUP, Noise and Safety – deny** appeal, No ALUC authority on matter
- Issue 2 **Security Issues – deny** appeal, No ALUC authority on matter
- Issue 3 **Regional Approach – uphold** appeal - LAX Master Plan Program inconsistent with Section 21670(a)(2)

**NOTE:** Action taken on these impasse appeals may be overruled by a four-fifths vote of the Los Angeles City Council.

**Recommended Motion**

Staff suggests the ALUC consider the following recommended motion:

*“I move that the Airport Land Use Commission close the public hearing and indicate that it intends to UPHOLD the appeals, issues #1-2 submitted by the City of El Segundo and Issue 3 submitted by the County of Los Angeles and DENY issues #1-2 submitted by the County of Los Angeles. The ALUC instructs staff to prepare appropriate findings and a resolution for ALUC action prior to April 30, 2005.”*

**Prepared by:** Mark Child, Principal Regional Planning Assistant, Community Studies I

**Approved by:** Julie Moore, Supervising Regional Planner, Community Studies I

RDH:JTM:MC  
03/24/05

Attachments Forwarded under separate cover on March 17, 2005

**RESOLUTIO  
LOS ANGELES COUNTY AIRPORT LAND USE COMMISSION**

**EREAS**, the Los Angeles County Airport Land Use Commission (“ALUC”) met publicly on March 30, 2005 to discuss the appeals submitted by the City of El Segundo and the County of Los Angeles regarding impasses that have resulted between the appellants and the City of Los Angeles over approval of the LAX Master Plan Program (“Master Plan”).

**EREAS**, the Commission finds as follows:

1. The State Aeronautics Act (“Act”), Section 21670, et seq. of the California Public Utilities Code (“PUC”) requires every county in which there is an airport served by a scheduled airline to establish an airport land use commission.
2. Pursuant to Section 21670.2 of the PUC, the Los Angeles County Regional Planning Commission has the responsibility for acting as the ALUC for Los Angeles County and thereby coordinating the airport planning of public agencies within the County.
3. Section 21670.2 of the PUC also provides that in instances where impasses result relative to airport planning, an appeal may be made to the ALUC by any public agency involved.
4. According to Section 21670(a)(1) of the PUC, one purpose of the Act is to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.
5. As described in Section 21670(a)(2) of the PUC, another purpose of the Act is to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.
6. The powers and duties of the ALUC are contained in Section 21674(b) of the PUC which identifies the ALUC’s role in coordinating airport planning at the state, regional, and local levels as one to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.

7. The ALUC's review of an appeal primarily considers whether the airport planning being appealed is consistent with Article 3.5 of Chapter 4 of the Act (Section 21670 et seq. of the PUC). An appeal may be upheld by the ALUC if it finds that the information submitted by the appellant and/or presented at the public hearing substantiates that the airport planning proposed by the public agency whose planning led to the appeal is not consistent with the purposes of the Act. An appeal shall be denied when the ALUC finds that the information submitted by the appellant and/or presented at the public hearing substantiates that the proposed airport planning is consistent with the purposes of the Act.
8. Impasse appeals were received within 30 days of the date of the Los Angeles City Council's final decision on December 7, 2004 on the Master Plan, which is within the time limit established for receiving appeals by the ALUC pursuant to the ALUC Review Procedures, Chapter 2, Section 5.2.2.
9. On March 17, 2005, the ALUC was sent the following material:
  - Appeal submittal from the City of El Segundo dated December 29, 2004 and March 20, 2005
  - Appeal submittal from the County of Los Angeles dated January 5, 2005
  - Correspondence from the California Department of Transportation, Division of Aeronautics dated January 28, 2005
  - Correspondence from Carlyle Hall, attorney for Los Angeles World Airports (2 letters, dated February 25, 2005 and February 28, 2005)
  - Correspondence from ALUC regarding impasse appeals to
    1. Response letter to R. Austin Wiswell dated March 8, 2005
    2. Response letter to Carlyle Hall dated March 15, 2005
  - Section 21670.2 of the PUC
  - ALUC Review Procedures (pages 2-21 through 2-24)
10. On March 30, 2005, the ALUC held a public hearing and received oral and/or written testimony from the two appellants, four elected/appointed officials or their representatives, and three members of the public all speaking in support of the impasse appeals. No one spoke in opposition to the impasse appeals. The City of Los Angeles was given several opportunities to speak; however, no one representing the City spoke or presented any written testimony.
11. The impasse issues from the City of El Segundo relate to **airport capacity** and a **regional approach to airport planning**. Impasse issues from the County of Los Angeles also concern a regional approach to airport planning, and in addition include **consistency with the Los Angeles**

**County CLUP and airport security.** The impasses are between the appellants and the City of Los Angeles and concern the City of Los Angeles's decision to approve the Master Plan.

12. Regarding the **airport capacity** impasse:
  - a. At the final stage of implementation, the Master Plan proposes to limit the number of aircraft gates to 153 to restrict the airport's capacity to 78.9 million annual passengers (MAP).
  - b. The City of El Segundo believes that restricting gates is an inadequate capacity control and a dispute over airport capacity between the City of Los Angeles and the City of El Segundo has reached an impasse.
  - c. Due to the present, limited ground access system, the maximum capacity of LAX is generally agreed to be 78.9 MAP. The present number of gates at LAX is 115 plus 48 remote stands (for a total of 163 gates).
  - d. An independent analysis of airport capacity was provided to the City of El Segundo by an airport facilities expert. The analysis presented information that caused the City of El Segundo to dispute the method used in the Master Plan to constrain capacity. The independent analysis notes that the present constraining factor, ground access, will be improved allowing increased utilization of gates which could increase the airport capacity to as much as 89 MAP.
  - e. The City of El Segundo contends that safeguards are not in place in the Master Plan to prevent more than 153 of gates from being used at intermediate phases in the implementation of the Master Plan. The Master Plan only restricts the number of gates in the final phase of development when all facilities have been developed.
  - f. Potential discrepancies in passenger capacity could result in unplanned airport impacts in the surrounding community. Unplanned impacts could potentially lead to inappropriate development surrounding the airport. Such development places local jurisdictions, property owners and the airport at odds and thereby prevents the purpose of the Act from being achieved.
  - g. The Master Plan proposes to realign the southernmost runway 50 feet to the south, which is one of the facility enhancements. A multi-family structure in the City of El Segundo is located within the proposed runway protection zone (RPZ). The proposed location of the RPZ will create a new safety problem in the City of El Segundo.

h. The Act recognizes that noise and safety impacts cannot be completely avoided in airport planning. For this reason, airport land use compatibility planning brings together the affected jurisdictions to mutually-agreed impact levels. This type of coordinated planning between jurisdictions minimizes impacts because the airport's interests are protected while local jurisdictions, understanding the noise and safety impacts that will occur from the airport, plan accordingly and protect the interests of its constituents. Approval of the Master Plan while the MAP issue remains unresolved creates the potential for new noise and safety impacts to be introduced without adequate planning or mitigation and prevents the airport land use compatibility planning described in the Act from being accomplished, thereby thwarting the purposes of the Act.

13. Regarding the **regional approach** impasse:

- a. If the demand for increases in air travel is met with a greater emphasis on other airports in the region, significant capacity increases at LAX would not be necessary. Unnecessarily concentrating airport facilities at one location, LAX, is not the orderly expansion of airports the Act intends.
- b. The ALUC role in orderly airport planning and development includes coordinating with jurisdictions on preferred locations of airport facilities and expansions with regard to surrounding land use compatibility.
- c. The appellants contend that the Master Plan did not consider growth at other airports in the region where airport land use compatibility with the surrounding community may be better achieved.
- d. A regional approach to airport planning that provides for the growth of aviation facilities in undeveloped or less developed areas, such as Palmdale Regional Airport, where airport land use compatibility planning can be more effective would be consistent with the purposes of the Act.
- e. Providing airport facilities in urban areas can be consistent with the purposes of the Act provided that the public's exposure to excessive noise and safety hazards is minimized.

14. Regarding the **consistency with the CLUP** impasse issue:

- a. The appellant alleges that the ALUC can continue to discuss the matter of the Master Plan's inconsistency with the CLUP and the Los Angeles City Council decision to overrule the ALUC's determination that the Master Plan is inconsistent with the CLUP.

- b. The ALUC does not have the ability under the Act to continue the discussion regarding the inconsistency between the Master Plan and CLUP after the City of Los Angeles took its overrule action. During that overrule process, by resolution, the ALUC issued comments in opposition to the Master Plan as it relates to health and safety policies in the CLUP and opposed the City's overrule. The PUC gives the ALUC this authority and requires that the overruling agency consider those comments before taking final action on the overrule.
  - c. The Los Angeles City Council overruled the ALUC's determination that the Master Plan was inconsistent with the CLUP on December 7, 2004. The decision was made with a 12-3 vote by the City Council.
15. Regarding the **airport security** impasse:
- a. The appellant County of Los Angeles has requested that the City of Los Angeles refrain from taking final action on the Master Plan until the final results of a Rand Corporation study on airport security are released. The Rand Corporation study is focused on the security aspects of the proposed Ground Transportation Center (GTC).
  - b. The Rand Corporation study on airport security is in progress. A release date has not been made public.
  - c. The appellant's discussion on this impasse issue was minimal. Most significantly, the appellant failed to show a sufficient nexus between the security issues to be addressed in the Rand study and the purposes of the Act, including the powers and duties of the ALUC. For this reason, the appellant has failed to meet its burden of proof on the issue.
16. Final approval of the Master Plan will position the plan as the guiding planning document until 2015 (the Master Plan planning horizon). Discrepancies between airport plans and local jurisdictions' general or community plans will impair the ALUC's ability to fulfill its statutory responsibility to coordinate the planning for the areas surrounding each public use airport.
17. Airport land use compatibility planning cannot function in urban areas if airport planning does not include negotiation and coordination with surrounding jurisdictions concerning land use planning. When jurisdictions agree on activity and impact levels and plan using the same assumptions, both take responsibility to minimizing the public's exposure to health and safety impacts from the airport.

- 18. Pursuant to Section 21670.2(a) of the PUC, the action taken by the ALUC on the impasse appeals may be overruled by a four-fifths vote of the Los Angeles City Council, the public agency whose planning led to the appeal.
- 19. The ALUC Review Procedures, Section 5.5 (ALUC's Possible Actions) provides the standard for action on an impasse appeal. That standard is whether the airport planning being appealed is consistent with the purposes of Article 3.5 of Chapter 4 of the Act (PUC Sections 21670-21679.5).

**O , T E R E O R E , B E I T R E S O L E** that the County ALUC:

**OR A I A T I O C A S E R A 2 0 0 5 0 0 0 0 1 ( A P P E A L S U B I T T E B T E C I T O E L S E U O ) :**

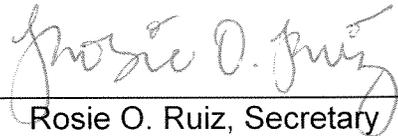
- 1. Upholds the appeal on airport capacity because there are areas that will be affected by implementation of the Master Plan where new noise and safety problems will be created, thus the Master Plan is inconsistent with PUC Section 21670(a)(1).
- 2. Upholds the appeal on a regional approach to airport planning because the Master Plan does not consider expanding airport facilities in areas where the public's exposure to excessive noise and safety can be minimized, thus the Master Plan is inconsistent with PUC Section 21670(a)(2).

**A O R A I A T I O C A S E R A 2 0 0 5 0 0 0 0 2 ( A P P E A L S U B I T T E B T E C O U T O L O S A E L E S ) :**

- 1. Denies the appeal concerning the ALUC's prior inconsistency determination on the Master Plan's inconsistency with the CLUP because the ALUC has no authority to discuss the matter after the overrule.
- 2. Denies the appeal on airport security because the appellant has not met the burden of proof by demonstrating there is a nexus between airport security and the purposes of the Act.
- 3. Upholds the appeal on a regional approach to airport planning because the Master Plan does not consider expanding airport facilities in areas where the public's exposure to excessive noise and safety can be minimized, thus the Master Plan is inconsistent with PUC Section 21670(a)(2).

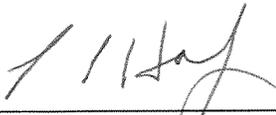
I hereby certify that the foregoing resolution was adopted by the Los Angeles County

Airport Land Use Commission on April 20, 2005.

By   
\_\_\_\_\_  
Rosie O. Ruiz, Secretary  
Los Angeles County  
Airport Land Use Commission

APPROVED AS TO FORM:

OFFICE OF THE COUNTY COUNSEL

By   
\_\_\_\_\_

LAWRENCE L. HAFETZ  
Principal Deputy County Counsel  
Public Works Division

RDH:JTM:MC  
04/14/05