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City of Three Forks  
206 Main Street  
Three Forks, MT 59752

*Re: Three Forks Airport Regulations*

Dear Sirs:

I represent Murray Ranch, Inc. They have asked me to review actions taken by the Three Forks City Council concerning the Three Forks Airport Regulations. As you know, my client sent a letter to the Gallatin County Commissioners dated July 5, 2007 expressing their concerns about these regulations, and copied the City of Three Forks. To date, they have not received a response from anyone.

I have reviewed the minutes of the June 12, 2007 City Council Meeting, as well as the minutes of the June 26, 2007 City Council Meeting. I have also reviewed a copy of the regulations which were obtained from the City Clerk by my client.

I noticed from the June 26, 2007 minutes that in response to a person protesting the regulations, the City Council stated that objectors could protest to the County Commissioners.

However, I question whether the City of Three Forks adequately afforded due process to the public, or my clients. The regulations look more like a "work-in-progress," with various blanks to be filled in, and references and numerous footnotes to options that the City Council may want to implement. In addition, the very basis of the regulations is in question, as Footnote One admits that a noise study has not been conducted addressing the need for the regulations.

Beyond the questionable process employed by the City of Three Forks, whereby no one from the public could have known and commented on what was actually being decided upon, the substance of the regulations seem to take private property rights in the surrounding area (approximately 20 square miles). The new regulations also seem to vest enormous and improperly broad authorities in a new government agency and enforcement officer concerning permitting and compliance matters. For instance, this enforcement officer can rule on any changes to the use of existing structures, or even the planting of trees. In addition, people will need to obtain variances for a variety of new uses. Probably most importantly, many likely uses for property surrounding the airport, including those of my client, are simply prohibited (i.e.,

residential uses). Finally, failure to comply with these regulations imposes civil and criminal penalties on the property owners.

Of great concern is also the broad and sweeping immunity provisions on Page 15, which state that, "a person may not recover damages from a local government, an airport authority, an airport operator, or an airport owner for any injury caused by noise, fumes, vibrations, light, or any other effects from normal and anticipated normal airport operations."

In effect, not only are new uses impaired, but existing uses will be prohibited from protecting their current property rights. In addition, existing residents are also impacted by the Section V Non-Conforming Uses provisions, which would prohibit the reconstruction of any existing uses. While the regulations attempt to "double-speak" by stating "land use regulations protect persons and property in the vicinity of the airport from airport related effects..." really the only persons being protected are the current airport owners and users, at the cost to all others.

Ironically, only at the end of the regulations has the City included provisions that should have been at the forefront of their discussions before drafting regulations. Namely, if the airport, the government, or aircraft users want to acquire super powers that they currently do not possess against surrounding property owners, they should exercise eminent domain rights as referenced in Section VII of the regulations, and the Airport Compatibility Act found in the Montana Code Annotated.

By this letter, I am requesting a copy of Ordinance 300 2007-2008, which passed first reading on June 12, 2007, and both second and third reading on June 26, 2007. I also ask for any regulations adopted through this ordinance, as I assume that the City passed something other than the draft provided by the City Clerk. I am also copying the Gallatin County Commission, and request that they take no action on these regulations until the public has been apprised of their full and final provisions, and full effect. Thank you.

Sincerely,



Arthur V. Wittich

AVW/am

cc: Gallatin County Commission  
Client