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Utilizing Appraisals as Constructive Negotiating Tools

- The appraisal process can either be the best thing to happen to an on-airport negotiation or the worst thing.
- Almost all airport transactions involving in place tenants have much more to do with a property's "investment value" than "market value".
- By sharing the cost of an appraisal jointly, a lessor and lessee can turn a potentially non productive adversarial negotiation into one where the appraiser effectively acts as a mediator, and helps both sides more easily come to a win/win final agreement.
- This will only work if the appraiser understands both sides legitimate business interests and knows how to apply this knowledge to the realities of the airport and aviation business.
- Most airport negotiations to which this process might apply involve parties who want to come to a mutually agreeable accord. The appraisal/mediation process should help provide a productive, stable negotiating environment that will hopefully allow both sides to walk away from the table reasonably happy.

There are situations when airport operators and their existing tenants must come to an agreement with regard to the "value" of a particular airport property. An example is when a ground lease expires under a hangar, and the occupant of the facility wants to stay on as a tenant and lease both land and building. Another relates to periodic increases in rent which may apply to an airport improvement or land. In any event, many existing airport leases allow for the appraisal process to help determine the new financial structure. Instead of developing a clear and consistent rationale for a new financial agreement, appraisals can make the negotiation process more expensive and longer than it needs to be. Each side gets its own appraiser, possibly with two wildly different values; a third appraiser gets called in to act as a go-between, and time and money are lost.

A good way to insure that both parties have adequate input into the appraisal process is to have both the lessee and lessor share the cost of an appraisal and utilize one mutually agreeable appraiser. By doing this, the appraiser is forced to act more as a mediator rather than a value advocate for one side or the other. Both parties can make their business interests an essential part of the appraisal, and the appraiser acts almost as a referee with the clear understanding that the ultimate goal is to develop a win-win situation for both lessor and lessee.

The important value concept to understand when renegotiating an airport transaction with in place tenants is that the value has less to do with "market value" and far more to do



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with "investment value". Real estate appraisers define investment value as the value of a particular property to a particular investor, based upon the idiosyncrasies of his or her requirements. Market value is thought of as impersonal, detached and extending beyond the realm of the parties attempting to agree on value.

The basis of an equitable agreement will be the negotiated reflection of the particular business interests of that particular airport tenant, and the particular business interests of that particular airport operator. The "investment value" appraisal can set the stage for this process at the outset, and can articulate the position of both parties as part of the analysis.

By focusing on specific interests, the appraiser can avoid muddying the water with larger "market" issues which may have little or nothing to do with the specific concerns of the parties involved or little to do with airport/aviation property. By representing both parties in this way, an appraiser avoids some of the pitfalls which occur when "advocacy" appraisal is practiced.

When both parties act as the client, it is also possible to steer the appraiser away from any erroneous conclusions he or she might make with regard to the property in question.

For example, many appraisers are unaware of the impact that the Sponsor's Assurances regarding the Airport Layout Plan (ALP) have on airside property at airports which have received grant money via the Airport Improvement Program. Appraisers will sometimes draw conclusions about the property's Highest and Best Use which are in conflict with the FAA's compliance regulations regarding airport property. Because a parcel of airside land may be physically next to a commercial shopping center, the land's Highest and Best Use cannot be assumed to be for non-aviation commercial/retail purposes until all of the grants pertinent to the airport have expired if the airport is in the AIP Program . This relates to the test of legal permissibility which must be met in order to determine the property's Highest and Best Use.

If the appraiser doesn't know this, one or both of the clients will be aware of these and other airport/aviation considerations, and any conceptual dead ends can be modified before the underlying assumptions become an integral part of the finished appraisal.

In fact, the whole process does not even have to result in a finished appraisal product. By using the appraiser as a mediator to help determine how each party integrates their business interests into the final framework of the transaction, the lessee and lessor are creating a negotiating environment which allows both parties to objectively and fully examine all of the elements which are relevant to both sides in determining the basis for a final agreement.



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Few of us involved in the aviation business need to be reminded that the economic landscape which supports almost all elements of the aviation marketplace is currently a depressing sight. FBOs are having a harder and harder time making it, corporations are curtailing or eliminating flight departments, and airlines are losing record sums of money. It is in everyone's interest connected to the industry to find the most efficient and fairest way of negotiating price structures for airport property which will keep everyone in business.