

SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY

P.O. BOX 82776, SAN DIEGO, CA 92138-2776
619.400.2400 WWW.SAN.ORG

September 11, 2008

Peninsula Community Planning Board, Airport Committee
Attention: Suhail Kahlil, Chair
510 Tarento Drive
San Diego, CA 92106

Re: Your letter dated August 8, 2008; Subject: Community
Participation on Airport Authority Board

Dear Suhail,

The Authority has considered your request that a member of the Peninsula Community Planning Board ("PCPB") be placed on the Authority's Curfew Violation Review Panel ("CVRP") as an *ex officio* member. After reviewing the request and consulting with legal counsel, this request must be respectfully denied. The Authority appreciates the interest and concerns of the PCPB which center upon ensuring that (1) the airport curfew regulation is enforced, (2) administrative procedures for reviewing alleged curfew violations are followed, and (3) appropriate civil penalties are imposed on curfew violations.

The CVRP functions as a quasi-judicial legal panel. It is charged with the responsibility to (1) evaluate allegations that a curfew violation occurred, (2) weigh the evidence and proffered defenses, and (3) impose, if warranted, an appropriate penalty based on the evidence, circumstances and regulation. As a quasi-judicial body, constitutional due process requires that the CVRP be comprised of individuals who are totally objective, fully impartial and absolutely disinterested in the outcome of each decision. Decisions of the CVRP must be above reproach and not open to criticism that CVRP members, *ex officio* or otherwise, have a direct or indirect conflict of interest in the outcome of the matters that come before it.

The inclusion of a PCPB community member, even as an *ex officio* member, detracts from the mandated objectivity and impartial nature of the process because PCPB members arguably (1) reside in or near the airport's noise impact area, (2) are directly or indirectly affected by noise generated by curfew violations, or (3) have a direct or indirect disqualifying financial interest.



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In summary, inclusion of a potentially interested party violates the minimum requirements and standards of procedural and substantive constitutional due process.

Please be advised that the meetings of the CVRP are public and representatives of the PCPB are free to attend and monitor the proceedings and actions of the CVRP. In conclusion, the Authority believes that constitutional due process standards require that the CVRP be composed of independent members who are not affected by the noise of aircraft operations.

I hope this letter clarifies the Airport Authority's position regarding your Board's request. Please call Dan Frazee, Director, Airport Noise Mitigation, at (619) 400-2781 if you have further questions.

Sincerely,



Thella F. Bowens
President / CEO