

Briefings

A publication of the Airport Technical Assistance Program of the Center for Transportation Studies at the University of Minnesota

2018 Vol. 18, No. 3

Seven strategies for managing airport legal risks

Running an airport can be a risky endeavor, but there are numerous steps cities and airport operators can take to help avoid legal issues. At the 2018 Minnesota Airports Conference, risk management attorney Chris Smith with the League of Minnesota Cities and John DeCoster, associate vice president with Landrum & Brown, shared their top strategies for preventing legal problems.

1. Require contractors to have insurance

It may sound simple, but even in small projects something could go wrong, so insurance is always essential. Common types of insurance include workers' compensation, employers' liability, commercial general liability, and business automobile liability. Specialized projects may require additional insurance coverages such as aircraft liability insurance, hangar keeper's liability insurance, builders risk insurance, or professional liability insurance.

2. Establish insurance minimums

The minimum recommended amount of coverage is \$1 million per occurrence for all coverages, while \$2 million per occurrence is a more common requirement. In some instances, even higher limits may be required. "Think about what the particular risks are for each project, and then determine what types of insurance to have and how much coverage," Smith said. "Some things are inherently more risky and warrant higher coverages."

3. Always have an indemnification provision

A contract's indemnification clause is the single most important provision because it shifts some of the risk to the contractor. When this clause is included, the contractor is required to defend the city, compensate the city for loss or damage, and hold the city harmless. "Anytime someone gives you a contract



to review, this is what you should look for," Smith said.

4. Require an "additional insured" endorsement

It's important that a contractor's insurance policy be endorsed to add the city as an additional insured. "Being a certificate holder for a contractor's Certificate of Insurance conveys no rights—it's meaningless without an endorsement," Smith said. "Being endorsed as an additional insured works with the indemnification provision in a contract to reinforce the risk transfer to the contractor."

5. Establish minimum standards

Minimum standards should include policies, guidelines, rules, and regulations for the businesses and individuals conducting commercial aeronautical activities on airport property. "We're finding more and more that minimum standards provide the playbook that allows you to effectively administer your airport," DeCoster said. "They help you avoid conflict, define enforcement action, and avoid legal and Part 16 claims."

6. Refine tenant leases and contracts

Key points to include in your tenant leases and contracts are term and com-

mencement, reversion or removal, rent and escalation provisions, tenant improvement requirements, insurance and indemnification, and allowable uses.

"For example, I've seen people storing yachts, pontoons, and RVs in hangars instead of aircraft," DeCoster said.

"Having a contract that defines allowable uses for hangars gives you a way to ensure hangar space is used properly."

7. Prioritize 5010 inspections

These state inspections verify that an airport meets minimum safety requirements and are the primary source of published information about your airport. A problematic 5010 inspection could raise unwanted red flags with the Federal Aviation Administration, causing it to restrict approaches or place limitations upon the airport. "It may be easy to blow off or discount these inspections, but the reality is that if there is a finding, you need to take action, correct it, and file notice. The problem is not going to go away on its own," DeCoster concluded.

An airport story's: Willmar Municipal Airport

Willmar Municipal Airport—John L. Rice Field is a public-use airport located west of the central business district of Willmar, a city of about 19,500 located in central Minnesota. The city-owned airport opened in September 2006 at its current location along Highway 40 SW.

The airport field is named in honor of John L. Rice, who managed the airport from 1945 to 1980. Rice was assisted by his wife, Mary Jane, who, as one of the first female pilots in Minnesota, was also an important figure at the airport.

The original Willmar Municipal Airport was established in 1934 as a federal work re-

100' paved runway, 3,000' x 250' turf runway, precision and non-precision instrument approaches, and hangar space. The terminal building houses a 30-person meeting room, passenger waiting lounge, flight planning area, and pilot facilities. The airport offers aircraft fuel sales, aircraft maintenance, ramp area/tie downs, and rental car assistance.

The airport's fixed-base operator (FBO), Oasis Aero, offers specialized fuel tank repair and annual inspections along with flight instruction, pilot service, and Mooney parts sales. In addition, the FBO officially assumed management of the airport on

able to handle small issues quickly before they turn into large issues."

Many Willmar-area companies use the airport's services, including Pioneer Hi-Bred International, Hormel Foods, BNSF Railway, Duininc Inc. Target Corporation, Wal-Mart Stores, the State of Minnesota, FedEx, and the U.S. Army. In 2013, Life Link III, a helicopter ambulance emergency response and transport, set up a base at the airport.

Because Willmar Municipal is a relatively new airport, its infrastructure is in good shape. Funding for crack sealing and sealcoating of the runway and taxiways to extend pavement life is its most pressing need, Rudningen says.

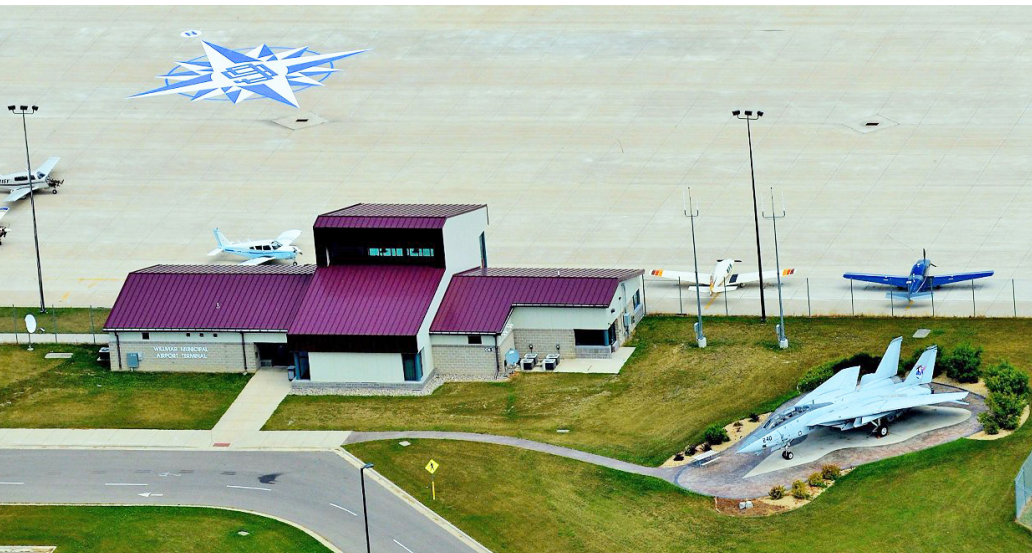
Rudningen attends city department-head meetings each month. Communication is key to good working relationships, he says, so routine reporting and weekly conversations ensure nothing slips through the cracks. "The current cooperation between the City of Willmar and the FBO is really a strong point of our airport," Rudningen says. "Having a unified front, welcoming people to the area, and satisfying the needs of all users has had a tremendous positive impact on our airport."

A self-described "airplane nut," Rudningen says people ask him all the time what he's doing at the airport so early, or late, or on a weekend. "I respond with this: If I had a real job, I would be saving money so I could come to the airport on evenings and weekends to hang out and fly. So it's pretty nice to get paid for it."

Check out Willmar Municipal Airport for yourself during the 2019 Minnesota Airports Conference!

Mark your calendar!

The 2019 Minnesota Airports Conference will be held in Willmar on April 24–26. You won't want to miss this opportunity to learn from experts and network with fellow professionals. Visit the AirTAP website for more information: www.airtap.umn.edu/events.



lief project during the New Deal. For years it served a busy industrial park adjacent to the east side of the airport property. According to the website "Abandoned & Little-Known Airfields," (airfields-freeman.com/MN/Airfields_MN_W.htm) the growth of this industrial park, however, likely played a role in the decision to relocate the airport. With the industrial park growing up around it, there wasn't room to build additional hangars. In addition, the site lacked an adequate clear area at the approach end of the runways to install an instrument landing system. After conducting several studies, in 1995 a joint airport-planning group recommended replacing the original Willmar airport by constructing a new facility two miles to the west.

The present-day airport includes a 5,500' x

June 1, 2018, after a period of assisting with management since the former manager left at the end of 2017.

Mechanic, pilot, and flight instructor Eric Rudningen, who runs the FBO with mechanic Paul Beck, says the transition was smooth, partly because Oasis Aero had been handling operations such as mowing, spraying, and general upkeep and maintenance at the airport since early 2013. But the additional management duties necessitated turning over spraying and mowing to Willmar's public works department. As for the rest of the duties, Oasis Aero's staff of six, as well as weekend help, ensures the operation works, Rudningen says. "The main efficiency is that we are here from 5 a.m. to 5 p.m. Monday through Friday and 8 to 5 on the weekends.

We see what goes on each day, and we are

AirTAP was developed through the joint efforts of the Minnesota Department of Transportation, the Minnesota Council of Airports, and the Center for Transportation Studies (CTS). AirTAP is housed within CTS at:

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Briefings is published quarterly in print and online.

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Photos: Eric Rudningen/Willmar Municipal Airport; Erin Stregie; Katherine Stanley; Shutterstock

Regional air transportation plays key role in moving freight forward

Though not often in the spotlight, regional airport transportation is a critical part of Minnesota's freight industry. At the June 16 meeting of the Minnesota Freight Advisory Committee (MFAC), three aviation professionals offered a look at some local and regional air freight operations.

Cassandra Isackson, director of MnDOT's Office of Aeronautics, began by providing some context. "I think when most folks hear 'aviation' they maybe think about getting on a Delta Airlines flight and going on vacation somewhere—that sort of thing," she said. "I want to give you a little different picture of what aviation really is."

Minnesota has more than 300 airports, which include public and private airfields, turf strips, seaplane bases, and hospital heliports. Over half of the state's airports are owned by cities with fewer than 5,000 people.

Of Minnesota's airports, 135 are state-funded, while 97 are federally funded. When it comes to this transportation funding, "Aviation is a bargain," Isackson said. Annual federal funding for Minnesota airports is about \$56 million, and state funding (which comes solely from aircraft registration fees, taxes on aircraft sales, aviation fuel, airline flight property, and other aviation-related fees such as licensing) amounts to about \$20 million.

"We're not talking about just getting from the Twin Cities to Fargo, we're talking about [going from] the Twin Cities to South Korea," Isackson said. "So that's a lot of access to global markets for not a whole lot of public investment."

Next, Tracie Walter, vice president and

director of operations for Bemidji Aviation Services, described that company's operations running freight, cargo, next-day air, and two-day air. The business is growing and expanding thanks to the demand from "everybody wanting everything now," she said.

Bemidji Aviation Services operates with a fleet of 59 aircraft. In Minnesota during 2016, the company flew over 9,000 hours, hauling nearly 7 million pounds of cargo. In 2017, with the purchase of Encore Air Cargo out of Sioux Falls and some additional routes, those numbers nearly doubled, Walter said. The largest airports Bemidji Aviation operates out of are Denver, Sioux Falls, and Minneapolis; it recently added the smaller airports of Morris and Wadena.

"So the little airports that have 5,000 people get an airplane that holds 2,000 to 3,000 pounds of freight Tuesday morning through Friday morning," she said.

Walter said the company's biggest challenge, similar to that of the trucking industry, is finding qualified people to do the job—in this case, flying planes. "It's a highly technical skill. It takes a long time to learn how to do it," she said. And like trucking, "it's a lifestyle," she added.

Operating on a larger scale is Minneapolis-St. Paul International Airport (MSP). Neil Ralston, airport planner with the Metropolitan Airports Commission (MAC), said he's seen a continuing trend of expansion in the freight hub. About 450 million pounds of freight were processed at MSP in 2017; about 75 percent of that was carried on dedicated freight airlines such as FedEx, UPS, and DHL. The dedicated freight

airlines account for about 400 weekly flight operations, which is about 5 percent of the 8,000 in a given week. The remaining quarter of air cargo is carried in the bellies



of passenger airline aircraft, Ralston said.

Air cargo activity peaked in 2004, then entered a downturn through 2009 before stabilizing and starting to slowly grow again, Ralston continued. In 2017, MSP processed the highest amount of cargo since 2008, and so far in 2018, activity is up a few percentage points over 2017. "So that's a positive sign, but it does appear the demand for overnight package and air freight service has been altered downward from that experience in the early 2000s," he noted.

Ralston said much of the Minnesota manufacturing community is structured to ship goods to Chicago and then put them on cargo aircraft there. The MAC plans to have ongoing conversations with its business and manufacturing community to learn what factors could increase international air cargo activity at MSP, he said.

All about NOTAMs—and more—at Airports 101

On September 20, 33 aviation personnel—most new to the industry—gathered in Brainerd for AirTAP's first "Airports 101" workshop to learn about airport operations and management. Among the topics covered was the airport manager's responsibility for ensuring safety, which includes reporting changes at an airport (runway closures, reduced braking conditions, construction, etc.) through Notices to Airmen (NOTAMs). Steve Wright with the Brainerd airport demonstrated NOTAM Manager, the new web-based direct entry tool for issuing

NOTAMs (<https://notams.aim.faa.gov/dnotam/#1>). The system enables faster issuance and approval, is easy to use, reduces submission errors, and retains a log for tracking and compliance, Wright noted. Although NOTAM Manager is the preferred method, issuance through an airport's Flight Service Station or its appropriate air traffic facility are still approved, he added.

The event also covered other manager duties such as maintaining airport lighting, mowing, snow plowing, and monitoring fuel systems.



Event aims to spark girls' interest in aviation

During the last two decades, the number of women in the aviation industry has steadily increased—but the numbers are small compared to the number of men. Women pilots, for example, represent only six percent of the total pilot population, according to Women in Aviation, International (WAI).

WAI's "Girls in Aviation Day" is designed to introduce and educate girls age 8 to 17 on the many career choices and lifestyle possibilities offered by the aviation/aerospace industry. With that aim, the Minnesota chapter of WAI—Stars of the North—held its annual aviation event on Saturday, September 22, at Flying Cloud Airport in Eden Prairie. The event featured

various aircraft on display, interactive activities, and representatives from leading aerospace companies in Minnesota. Activities included building a mini vortex cannon with a cup and balloon, peering inside a jet airplane combustion engine, building Styrofoam gliders, and riveting a piece of airplane metal.

Eleven-year-old Erin Strege of Roseville said the event was interesting, with "lots of nice people working there to help kids learn about all parts of aviation...It was neat to see that girls can [grow up] to do any job in aviation."

For Strege and friend Madeline Drake, 11, of St. Paul, the highlight was the free airplane rides sponsored by the Experimental Aircraft Association through its Young Eagles program. The girls' pilot led them through the preflight, during which he explained what they would see and do aboard the Cessna 172 Skyhawk. The flight around the metro area lasted about 20 minutes. "It was really cool to be up in the air in such a small plane...and our pilot explained all the different parts of the airplane, how an airplane works, and how safe it is," Strege said. "We could see



Erin Strege and Madeline Drake on their metro-area flight. Photos courtesy Erin Strege.

what the pilot was doing, we could see all of his controls, and we could hear what the [air traffic control] tower was saying. That made it really fun."

More information about WAI is available at www.wai.org.



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