



SAN DIEGO COUNTY  
REGIONAL AIRPORT AUTHORITY  
**STAFF REPORT**

Item No.  
**7**

Meeting Date: **JANUARY 6, 2011**

**Subject:**

**Authorize the Rejection of the Claim of Mukhtar Ahmad**

**Recommendation:**

Adopt Resolution No. 2011-0006, authorizing the rejection of the claim of Mukhtar Ahmad and all persons similarly situated.

**Background/Justification:**

On December 20, 2010, Mukhtar Ahmad ("Ahmad") filed a claim with the Authority alleging that on or about August 2, 2010, he and certain unidentified persons similarly situated suffered damages arising from the imposition of allegedly illegal taxicab trip fees by the Authority on taxicabs at San Diego International Airport ("Airport"). The amount of the claim is for a sum "far in excess of \$10,000".

Ahmad alleges in his claim that on or about July 1, 2010, the Authority wrongfully imposed a taxicab trip fee structure at the Airport to be effective commencing August 2, 2010. The claim seeks to stop future collection of the trip fees and a refund of all fees collected.

Ahmad's claim recites as the legal basis for the claim the following: "constructive fraud/unjust enrichment and imposition of a constructive trust covering illegally collected and prematurely collected fees", "ill gotten gain", "conversion, breach of the obligation of constitutionally required good faith when enacting fees, unconstitutional imposition of fees, illegal imposition of fees on taxis and taxi passengers, attempting to regulate taxis without authority from the State Legislature", "illegally attempting to regulate taxis when comprehensive taxi regulation laws and plan already existed with the City of San Diego and Metropolitan Transit Authority, deceit, failure to comply with the Brown Act, Bagley-Keene Act", "failure to publish resolutions prior to a Board vote", "using a motion to enact fees when a resolution was necessary pursuant to Airport Code 9.12(b)(1)", "failing to specify the payor of the taxi trip fees thereby rendering them unconstitutionally vague and causing a denial of due process to those affected", "the enactment of fees by creating false *ex post facto* resolutions and minutes which do not accurately reflect the votes taken", "the Board allowing the staff to engage in action which only the Board can do", "plus other causes of action, plus interest and reasonable court costs/attorney fees."

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It is recommended that the claim be denied. A review of the facts and actions taken by the Board and Authority staff reflect that the taxicab trip fee was legally adopted both procedurally and substantively at a rate using a cost recovery methodology which the Authority is permitted to impose upon all airport users, including taxicab operators, under state and federal law and the Authority's own code.

First, the records of the Authority reflect that the Board's actions with regard to the imposition of the taxicab trip fee were properly noticed and taken by resolution in accordance with the Ralph M. Brown Act.

Second, the Authority acting through its Board has plenary power to operate, regulate, oversee, and charge for the use of the Airport, including but not limited to the exercise of powers: (1) to govern the Authority [Cal. Pub. Util. Code §170013]; (2) to adopt and enforce rules and regulations for the administration, maintenance, operation, and use of its facilities and service [Cal. Pub. Util. Code §170013]; (3) to "assume all revenue stream revenues to fund its activities, operations, and investments consistent with its purposes". . . [which] . . . may include, but are not limited to, imposing fees, rents, or other charges for facilities, services, the repayment of bonded indebtedness, and other expenditures consistent with the purposes of the authority". [Cal. Pub. Util. Code §170064(b)]; (4) "to maximize the revenues generated from enterprises located on the property of the authority". [Cal. Pub. Util. Code §170064 (c)]; (5) "hold, enjoy, lease, . . . real and personal property within or outside its area of jurisdiction in order to further its purposes". [Cal. Pub. Util. Code §170038]; and (6) "study, plan, and implement any improvements, expansion, or enhancements" at the Airport". [Cal. Pub. Util. Code §170064 (c)].

Third, Cal. Gov. Code §50474 grants broad power to local agencies operating airports to regulate ground transportation as follows:

"In connection with the erection, improvement, expansion, or maintenance of such airports or facilities, a local agency may:

(a) Regulate the receipt, deposit, and removal, and the embarkation or debarkation of passengers or property to and from such landing places or moorage.

(b) Exact charges, fees, and tolls, and enforce liens for their payment.

(c) Lease or assign for operation any space and any necessary or useful appurtenances, appliances, or other conveniences . . . [Portions omitted.] . . .

(f) Regulate the use of the airport and facilities and other property or means of transportation within or over the airport. [Portions omitted]"

Fourth, the taxicab trip fee is a cost-based user fee imposed by the Authority to recover the costs and expenses incurred by the Authority in providing its facilities and assets to taxicabs and in the regulating and permitting of taxicabs and their activities at the Airport.

Fifth, cost-based user fees are expressly exempt from the prohibition on illegal taxes and fees found in the California Constitution.

Sixth, the Authority under federal law and applicable grant assurances is obligated to "maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection."

**Fiscal Impact:**

Not applicable.

**Environmental Review:**

- A. California Environmental Quality Act: This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act (CEQA), as amended. 14 Cal. Code Regs. §15378. This Board action is not a "project" subject to CEQA. Cal. Pub. Res. Code §21065.
- B. California Coastal Act: This Board action is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

**Equal Opportunity Program:**

Not applicable.

**Prepared by:**

BRETON K. LOBNER  
GENERAL COUNSEL



RESOLUTION NO. 2011-0006

A RESOLUTION OF THE BOARD OF THE  
SAN DIEGO COUNTY REGIONAL AIRPORT  
AUTHORITY AUTHORIZING THE REJECTION OF  
THE CLAIM OF MUKHTAR AHMAD AND ALL  
PERSONS SIMILARLY SITUATED

WHEREAS, on December 20, 2010, Mukhtar Ahmad filed a claim with the San Diego County Regional Airport Authority for alleged damages arising from the imposition of alleged illegal taxicab trip fees by the Authority at San Diego International Airport ("Airport"); and

WHEREAS, at its regular meeting on January 6, 2011, the Board considered the claim filed by Mukhtar Ahmad, including the report submitted to the Board, and found that the claim should be rejected; and

NOW, THEREFORE, BE IT RESOLVED that the Board hereby authorizes the rejection of the claim of Mukhtar Ahmad and all persons similarly situated.

BE IT FURTHER RESOLVED THAT this Board Action is not a "project" as defined by the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code §21065; nor is it a "development" as defined by the California Coastal Act, Cal. Pub. Res. Code §30106.

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a regular meeting this 6th day of January, 2011, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

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TONY R. RUSSELL  
DIRECTOR, CORPORATE SERVICES/  
AUTHORITY CLERK

APPROVED AS TO FORM:

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BRETON K. LOBNER  
GENERAL COUNSEL

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