

S C R

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Official Business

Alaska State Legislature

JAN 25 1989

Copy TO Terry
P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

January 23, 1989

TO: Senator Lloyd Jones, Chairman
Senate Transportation Committee

FROM: Senator Al Adams *AAA*

I would appreciate it if you would schedule SCR 3 at your earliest convenience.

This resolution simply directs the Department of Transportation to amend their regulations for the lease of land at state owned airports to allow for rent free leases to squadrons of the Alaska Wing of the Civil Air Patrol. Currently there are seven such leases, all being rent free except for the lease at the Barrow airport. The problem, according to DOT, is that current regulations do not allow for the waiver of rents at state owned airports.

Alaska State Legislature

Al Adams
District L

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

3111 C Street
Anchorage, Alaska 99503
(907) 561-7622

Official Business

MEMORANDUM

February 8, 1989

TO: Senator Lloyd Jones, Chairman
Senate Transportation Committee

FROM: Senator Al Adams *APA*

Thank you very much for scheduling SCR 3 for committee meeting tomorrow. As you probably noticed from the back-up material provided to you by my office, this has been a longstanding, irritating problem.

Today I was assured by the Commissioner of DOT that this problem will be taken care of this year.....the regulation amendment process is to begin in mid-March.

Cosequently, I would appreciate it if you would remove this bill from the committee schedule tomorrow. (If there are problems down the line, I may have to ask again that it be scheduled.)



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

January 23, 1989

TO: Senator Lloyd Jones, Chairman
Senate Transportation Committee

FROM: Senator Al Adams *AA*

I would appreciate it if you would schedule SCR 3 at your earliest convenience.

This resolution simply directs the Department of Transportation to amend their regulations for the lease of land at state owned airports to allow for rent free leases to squadrons of the Alaska Wing of the Civil Air Patrol. Currently there are seven such leases, all being rent free except for the lease at the Barrow airport. The problem, according to DOT, is that current regulations do not allow for the waiver of rents at state owned airports.

The following information is included as back-up to this resolution:

1. An analysis of the resolution by George Utermohle, Legislative Counsel.
2. 1/12/87 letter from James Caress, Barrow Civil Air Patrol, outlining the problem and requesting assistance.
3. 2/10/87 letter from DOT outlining the current situation with specific information about CAP leases around the state. This includes the recommendation that the legislature pass a resolution to give direction to DOT to waive rents for all CAP land leases on state-owned airports.

4. The 10/29/82 letter from DOT saying that waivers will be granted on all CAP leases on all airports with two exceptions.
5. 1/16/86 letter from DOT Leasing to DOT Commissioner's Office recommending that the 1982 CAP rent waiver policy be rescinded because of DOT regulations under Title 17 of the Alaska Administrative Code.
6. 3/17/87 letter from DOT in support of granting a rent waiver, but also saying that DOT needs to get direction from the legislature regarding rent for CAP leases on state airports.
7. 8/28/87 letter from DOT saying regulations changes take time, supporting the waiver for CAP leases, and indicating that DOT would work on this particular issue first, if possible, although they were working on a comprehensive rewrite of Title 17 and this would definitely be a part of that rewrite.
8. 11/2/87 letter to DOT leasing, from DOT Northern Region saying they knew that DOT Leasing didn't think the Commissioner had authority under the regulations to issue these CAP waivers, but Northern Region feels that the Commissioner has very broad authority if it is in the best interest of the state. Northern Region believes that this instance meets the test.
9. 2/10/87 letter from DOT to Barrow CAP saying that changing regulations is a time consuming process, consequently there is no way of having the rent waiver amendment completed before rent became due at the Barrow CAP. This letter directs the accounting office to postpone the collection of rent at the Barrow CAP until the rent waiver regulations is adopted.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

September 21, 1988

SUBJECT: Leases by the Civil Air Patrol at State-Owned
Airports (W.O. 6-0102)

TO: Representative Al Adams

FROM: George Utermohle *GU*
Legislative Counsel

Enclosed is the resolution requested by Marla Berg of your staff, regarding the lease by the Civil Air Patrol squadron based the Barrow airport.

In addition to requesting that the Department of Transportation and Public Facilities grant a rent-free lease to the Barrow CAP squadron, the resolution also requests the department to amend its airport leasing regulations in order to provide for rent-free leases to all CAP squadrons. The department apparently has sufficient statutory authority under AS 02.15.070 and 02.15.090 to waive lease payments if it is in the public interest to do so, however in my opinion the department's regulations do not allow it to waive lease payments by the CAP at state-owned airports. Under 17 AAC 40.340 the department must lease airport land for a reasonable fee and, except for leases for utility corridors and government agencies directly involved in airport operations, the department may not waive lease payments. The department must amend its regulations in order to give itself the authority to waive lease payments for leases of airport lands to the CAP.

Please contact me if I can provide further assistance.

Enclosure

GU:gc
WKG3/110



HEADQUARTERS
FARTHEST NORTH SQUADRON

CIVIL AIR PATROL
AIR FORCE AUXILLIARY
P.O. Box 630
Barrow, Alaska 99723



January 12, 1987

Alaska State Legislature
House of Representatives
Representative Al Adams
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Representative Adams:

This letter from the Barrow Civil Air Patrol Squadron is presented to you as a plea to intercede in our behalf.

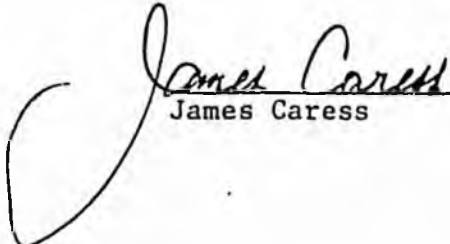
In an endeavor to mature our CAP squadron capability, we obtained a State of Alaska "lease lot" that is in proximity to the Airport proper. It was our impression that the final outcome of the lease lot arrangement would be at no cost to the local squadron. After receiving notice from the "State" that our squadron was legally liable for the lease amount, we turned to CAP Wing Headquarters but received no measure of relief, politically or financially.

Our local squadron did raise the money through our own efforts to pay the lease amount plus a late charge. This "lease lot" is nothing more than tundra and as of yet has no tie to a taxiway or runway until the "State" completes the new taxiway. In addition to paying the yearly lease lot payment, we have purchased and paid for a legal plot plan survey of the lot, culverts for the lot and now are faced with purchasing gravel (which costs more than gold in Barrow) to fill the lot to the specified grade. We have also built a 12' x 20' building for flight line use that is fully heated, has lighting, telephone, wall maps, etc. and is ready to be moved to the lease lot when "fill" and utilities are in.

For our squadron to continue on towards establishing a "home", or more properly, a base of operations is becoming financially unfeasible as we are very few in number to continue supporting this type of debt structure. We know of no other CAP squadron located in the "Bush" that pays lease lot money on the same basis as private enterprise. Enter our plea to you for help in obtaining financial relief from yearly lease lot payments to the "State".

Your consideration in this matter would be greatly appreciated and in behalf of our Community and CAP squadron, I thank you for your time.

Respectfully,


James Caress

STATE OF ALASKA

Steve Cowper, Governor

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

2301 Peger Road
Fairbanks, Alaska
99709-6394

NORTHERN REGION, Deputy Commissioner

(907) 451-2210

February 10, 1987

Re: Civil Air Patrol Lease
Barrow Airport
#87-27

The Honorable Al Adams
Alaska State House
P. o. Box V
Juneau, Alaska 99811
(Mail Stop 3100)

Dear Representative Adams:

On January 30, we received a call from J. C. Bradshaw of your office requesting information about the status of the Civil Air Patrol (CAP) leases on State airports and, more specifically, about the status of the CAP lease at the Barrow Airport.

The CAP lease at Barrow is unique in that the Farthest North Squadron agreed to pay a little over \$1,500.00 per year rent. The other six CAP land leases at State airports are rent free. We will discuss the lease at Barrow first, then briefly describe the other CAP leases.

In mid-December, 1985, our Leasing Office received an application from "Civil Air Patrol/50078" for a lease lot on the Barrow apron. The application was signed by David B. Wiseman, Squadron Commander. In January, 1986, Charlie Parr, our Leasing Chief, had several conversations with Mr. Wiseman. Parr informed Wiseman that under DOT's current regulations it appeared CAP would be required to pay rent and confirmed that with the Statewide Leasing Coordinator (see attached memo dated 1/16/86). A lease containing provisions for payment of rent was sent to Wiseman in mid-February. Notices regarding the proposed lease were posted at the Barrow Post Office, the MarkAir Terminal, and the Cape Smythe Terminal for 30 days. No comments were received in response to

the notice. The lease was reviewed by the Alaska Wing Commander, Colonel Anderson, in Anchorage and then signed on behalf of the CAP by Evelyn Wegmer, Wing Finance Officer. On April 25, an invoice for the rent was sent to the CAP Squadron in Barrow. On July 15, they were sent a notice that the rent was more than 30 days past due. At about this time, Jim Caress became our contact person for the Barrow CAP Squadron. On August 11, Parr spoke with Wing Commander Anderson, who had called regarding the rent situation at Barrow. Parr suggested that Anderson contact Steve Pavish, Statewide Leasing Coordinator, because Pavish was working on a survey of rent-free leases for then Commissioner Knapp. At Anderson's request, Parr also gave him the Commissioner's telephone number. Pavish discussed the matter with Anderson and, as an interim solution, suggested the CAP pay the rent and then follow up with the Commissioner. To our knowledge, that was the Department's last contact with anyone at Wing regarding this matter. Meanwhile, our Leasing Section continued to work with Caress toward a resolution of the rent problem. Our Finance Section continued to send out its standard form letters, including one dated October 5 which said we were turning the matter over to our Legal Section. At about the same time we received a proposal from Caress on how the Barrow Squadron intended to pay its rent by hosting a "HazMats" Seminar. On October 10, we sent Caress a letter stating that no legal action would be taken in view of the Squadron's conscientious efforts and the scheduling of the seminar. On December 3, the rent was received by our Finance Section. In early January, we discussed revising the payment due dates with Caress and prepared a lease amendment which would dovetail with the Squadron's ability to pay. Caress informed us that he would contact the Legislature with the goal of having rents waived for all CAP leases of State airport lands. On January 30, we received the inquiry from your office. On February 2, Charlie Parr and I met with Nancy Alley, newly elected Commander of the Barrow Squadron. She informed us that the lease containing the agreement to pay rent should never have been signed by Wing, and apparently that happened in error. Commander Alley also said that the Barrow Squadron was led to believe by Wing that State funds would be available for the rent payment. However, when the time came, no such funds were available and Wing advised the Barrow Squadron to pay the rent. We informed Commander Alley of your request and told her that when our response to you was complete we would send her a copy. We also suggested she prepare a new request for rent waiver and address it directly to me. I will forward it with a recommendation for waiver to the Commissioner.

The CAP also leases land at Fort Yukon, Valdez, Kotzebue, Birchwood, Sitka, and Fairbanks Airports. The oldest of these leases is at Fairbanks International Airport, where the Yukon Senior Squadron has had a lease since 1967. The lease is in the name of the Department of Military Affairs, and no rent was charged until 1981. (Our records contain no explanation as to why the lease was rent free for 14 years.) The Department of Military Affairs paid rent of \$3,300.00 per year for five years beginning July of 1981. In the spring of 1986, the Squadron requested a rent waiver from the Commissioner. I supported that request as did our Airport Director. On April 25, 1986, Commissioner Knapp waived the rent for one year only pending a review of the rent waiver policy on a Statewide basis.

The second oldest CAP lease is at Sitka. Our records indicate that application for lease was received from Baranof Composite Squadron in November of 1977 with a request from the City and Borough of Sitka that rent be waived. The lease with the Squadron became effective July 26, 1978, with a provision waiving rent and another provision restricting the use of the lot to operations only and specifically prohibiting parking of private aircraft on the lot. The record does not reveal who actually made the decision to waive rent.

CAP has had a lease (in the name of the Department of Military Affairs) at Kotzebue since spring of 1980 and paid rent the first two years. The CAP hangar was constructed with a \$400,000 Legislative appropriation. In the fall of 1982, Wing Commander Anderson wrote to then Commissioner Ward requesting that all CAP's be able to use State airport lands at no cost. Anderson said the CAP was funded by the State for maintenance, etc., and that part of the State funds were spent on land leases and therefore moving merely from one pot to another. In response to Anderson's request, Commissioner Ward decided CAP should not pay rent at rural airports; however, they should continue to pay rent at the International Airports. A copy of Deputy Commissioner Ryan's letter outlining Ward's decision is enclosed.

What apparently precipitated the renewed interest in waiving rent for the CAP was a new facility to be constructed at Birchwood Airport. The CAP, through the Department of Military Affairs, entered into a lease agreement requiring payment of rent in July, 1982. In November, 1982, the lease was amended to delete all references to rent in accordance with Ward's decision.

In the summer of 1983, Wing submitted applications for leases at Fort Yukon and Valdez. Those leases were first prepared with a rent clause in them. However, they were amended to conform to Ward's decision and leases without rent provisions went into effect with Wing on March 15, 1984, at both Fort Yukon and Valdez.

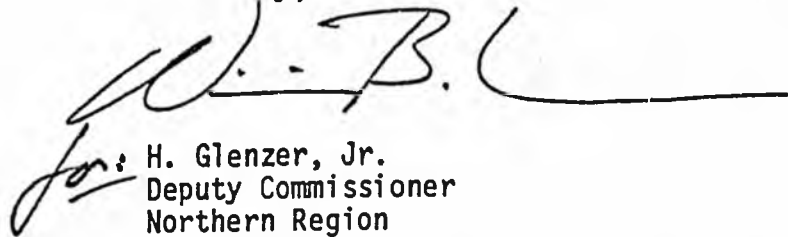
SUMMARY

In summary, there are seven leases of State airport land for CAP purposes: three through the Department of Military Affairs, two through Wing, and two with individual Squadrons. All leases but Barrow are rent free. Ward's 1982 decision regarding rural airports and Knapp's 1986 decision regarding Fairbanks International may be in violation of existing regulations.

RECOMMENDATION

We recommend that the Legislature by resolution give direction to the Department to waive rents for all Civil Air Patrol land leases on State-owned airports. We estimate that in Fiscal Year 88, the market rent of the existing seven leases is approximately \$50,000 per year.

Sincerely,


for: H. Glenzer, Jr.
Deputy Commissioner
Northern Region

CLP/edh

Enclosures: Deputy Commissioner Ryan's Policy Letter

cc: Nancy Alley/Commander/Farthest North Squadron/Civil Air Patrol/Barrow AK
Susan Flieschhauer/Legislative Liaison/Headquarters
Rocky Gutierrez/Commissioner
Legislative Assistant/Office of the Governor
John Martin/Chief of Planning and Research/Northern Region
Charles L. Parr/Chief/Airport Leasing/Northern Region
Stephen Pavish/Statewide Leasing Coordinator
Sharon Robinson/Planner/Northern Region

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)
266-1441

October 29, 1982

Re: Civil Air Patrol
Waiver of Lease Rent

Russell J. Anderson, Colonel
CAP Wing Commander
P.O. Box 1836
Anchorage, AK 99510

Dear Colonel Anderson:

Commissioner Ward has requested me to reply to your letter of August 25, 1982, since the leasing of all airport lands statewide falls under my responsibility.

Presently under the Alaska Administrative Code, Title 17, Chapter 40, Aviation, the Department's ability to relax airport lease fee requirements in behalf of the Civil Air Patrol is very limited. However, we believe that the aviation service functions performed by CAP fall within the narrow category where the Administrative Code permits the Commissioner to grant rent waivers.

I discussed the matter with Commissioner Ward and received his approval for a rent waiver for certain CAP airport leases. Waivers will be granted for all CAP leases on all airports in the State Airport System, with the following exceptions:

- A. Land or building leases on airports covered by the International Airport Revenue Fund (AS 37.15.430). The only fee exclusions for state agencies under the provisions of the fund apply to agencies which are directly involved in the operation, management or construction of international airports.

Colonel Anderson

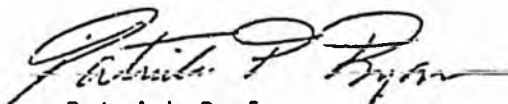
Page 2

October 29, 1982

5. On trunk and secondary airports in cases where CAP uses DOT/PF building space. In such cases, rent would be limited to a reimbursement of DOT/PF's utility costs for the space used. (An example of this is the Homer Airport CFR station where CAP leases one apartment unit for search coordination, meetings, etc. In that lease the CAP reimburses DOT/PF for utility costs at the rate of \$120.00/month.)

The rent waiver will be effective beginning on November 1, 1982. Within the next 30 days, the Division of Airport Leasing will be issuing appropriate amendments for those CAP leases which are subject to the waiver.

Sincerely,



Patrick P. Ryan
Deputy Commissioner
Maintenance and Operations
Department of Transportation
and Public Facilities

cc: Claude Millsap, Director
Division of Airport Leasing

Pat Rodgers
Regional Accounting Supervisor

Robert W. Ward, Commissioner

TO: Warren Sparks, Deputy Commissioner
Headquarters

DATE: January 16, 1986

FILE NO.:

THRU: Dan Malick, Director
Management and Finance
Headquarters

TELEPHONE NO.: 266-1444

SUBJECT: Civil Air Patrol
Waiver of Lease Rent

FROM: Stephen Pavish
Statewide Leasing Coordinator

Attached is a copy of an October 29, 1982 memorandum by Claude Millsap (then Director of Airport Leasing) regarding the waiver of rent for airport leases held by the Civil Air Patrol (CAP). The memo records a decision by then Commissioner Robert Ward to waive the rent for all CAP leases, with the exception of two narrow categories. The policy was effective November 1, 1982 and, in the absence of a contrary decision by any of the succeeding Commissioners, it continues in force today.

In 1982 I recommended against the adoption of this policy for several reasons. Concern for the Truck & Secondary Airports rent project and the recent filing of a lease application by the CAP in Northern Region prompts me to ask for reconsideration of the policy.

Despite the inferences in the October 29, 1982 memo that a rent waiver for CAP leases is consistent with 17 AAC 40.340 (a), the fact is that the waiver is contrary to the regulation. The last sentence of 17 AAC 40.340 (a) (copy attached) reveals that rent waivers may be authorized at the Commissioner's discretion only in two very limited categories of land use:

1. Easements or rights-of-way for utilities that serve the airport.
2. FAA or other government activities directly related to the operation of an airport such as landing aids, weather instruments, and control towers.

Since the first category only applies to utility easements, we must look to the second for the criteria applicable to leases. According to the regulation, lease rent waivers can only be granted if the lessee is a government agency that performs functions under the lease which are directly related to the operation of an airport. Based on the wording of this part of the regulation, the phrase, "directly related to the operation of an airport" clearly covers a very narrow group of functions necessary for:

- A. The navigation of aircraft enroute to and from an airport.
- B. The safe use by aircraft of airport approaches, runways, taxiways, and aprons.
- C. The direct maintenance or operation of the airport.

With one exception, all CAP lease sites on DOT&PF airports are used for the tie-down and maintenance of aircraft, as well as for meetings and search coordination. The one exception is an apartment in the Homer Airport CFR

building that is leased to the CAP for meetings and search coordination only. CAP has constructed hangars on several of their airport lease sites.

There is no disputing the fact that the search and rescue operations performed by the CAP are valuable public services. However, virtually none of the functions performed on CAP lease lots are "directly related to the operation of an airport", as defined in 17 AAC 40.340 (a). Furthermore, the CAP is not a government agency. Although the Alaska wing of the CAP receives most of its funding from government sources, it is, nonetheless, just a branch of a non-profit corporation established by Congress on July 1, 1946 (36 USC 201-208). Therefore, neither the CAP, as an organization, nor the land use under the CAP leases, satisfy the rent waiver criteria in 17 AAC 40.340 (a).

In addition to being inconsistent with Title 17, the CAP rent waiver policy doesn't conform with the spirit, if not the letter, of our grant assurances with the FAA. By Provision No. 24 of the FAA assurances, DOT&PF commits to ". . . maintain a fee and rental structure . . . which will make the airport as self-sustaining as possible . . ." Granting rent-free leases, when there is no direct reciprocal benefit to the airport, militates against the assured goal of a self-sustaining revenue structure. In some Lower '48 cases, federal funding has been withheld or restricted by the FAA at airports where prime aviation land was tied up in long-term, rent-free leases.

The existence of the 1982 CAP rent waiver policy may also place our airport land rental rate schedule in some jeopardy. This is because AS 02.15.090 (a) stipulates that the Department establish ". . . charges, rentals, and fees for the privileges or services, which are reasonable and uniform for the same class of privilege or service." (Emphasis added; according to the statute, leases are included in the word "privileges".) Under the uniform treatment requirement of the statute, other non-profit corporations that lease airport land could argue that the CAP rent waiver policy should be applied to all non-profit corporation leases. That would result in a significant loss in revenue since non-profit corporations currently pay rent on approximately 30 airport leases statewide. In the past, non-profit organizations have rarely objected to paying rent, probably because of our very low rental rates. However, as we go through our rent increase project this year, non-profit lessees will undoubtedly become more sensitive to this issue. In my opinion, the Department's legal and political position in the rent increase project will be significantly improved if we eliminate the 1982 CAP waiver and take a very narrow approach to rent waiver requests in the future.

In view of the foregoing, I strongly recommend that the October 26, 1982 CAP rent waiver policy be rescinded by Commissioner Knapp as soon as possible.

Attachments (2)

SP:mc

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NORTHERN REGION AIRPORT LEASING

Steve Cowper, Governor

2301 Peger Road
Fairbanks, Alaska
99709-6394

(907) 451-2217

March 17, 1987

Re: Barrow Airport
Lease Agreement ADA-70220

Nancy Alley, Commander
Civil Air Patrol/70058
Box 630
Barrow, Alaska 99723

Dear Ms. Alley:

Your February 16 letter requesting a waiver of rents for your lease at Barrow Airport was received by Deputy Commissioner Glenzer on March 11 and forwarded to me for handling. I will be preparing the recommendation for a rent waiver and submitting it to the Statewide Leasing Coordinator for his review. After he has reviewed it, he will attach his recommendation and forward it to the Commissioner. The final decision to grant (or not to grant) the rent waiver will be made by the Commissioner.

On January 14, we sent the Squadron a lease amendment which increased the size of the lot and therefore the rent, based on the survey you submitted to us. On March 6 that amendment, which had been signed by Troy Sullivan on the 3rd, was returned to us. However, the front of the lease had been marked with a magic marker "Rent to CAP does not apply--see attached." Attached was an October 29, 1982 memo from Claude Millsap, Director of what was then the Division of Airport Leasing, to the Leasing staff. In that memo, Millsap directed that rent for CAP would be waived with certain exceptions. (I am enclosing a copy of the lease amendment as marked up by Mr. Sullivan.)

Your original lease agreement, which was effective March 15, 1986 and signed on behalf of the Civil Air Patrol on April 8, 1986, contained Special Covenant No. 2, which stated that the State and Civil Air Patrol would sign a supplement to amend the premises description upon completion of the survey. That same original lease agreement, in Basic Provision No. 4, provides that the Civil Air Patrol will pay rent for the premises it leases. One party to a lease agreement cannot unilaterally change that agreement. Any change must be negotiated and agreed to by both parties unless a contrary provision is written into the original agreement. The Civil Air Patrol has a contractual obligation to pay rent for this lease.

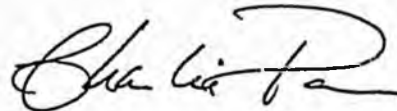
I am therefore enclosing three copies of Supplement No. 1 without Sullivan's alterations and asking that they be signed and returned to us immediately. When we forward your rent waiver request to the Commissioner, we will ask that he waive the rent for the current year beginning March 15. Until the Commissioner grants that waiver, the Civil Air Patrol will remain obligated for the rent. As you will note from the Supplement we prepared after negotiating with Jim Caress of your Squadron, we have changed the payment due date to December 10, which would follow your annual fund raising HazMat Seminar. With luck, we will be able to get the Commissioner's waiver before that date.

If the Supplement is not signed, your rent would have been due March 15 instead of December 10.

I appreciate the dilemma facing the Civil Air Patrol and am confident that your rent waiver will be granted. However, it is not the CAP's prerogative to either interpret or set policy for the Department of Transportation. The above-referenced Millsap memo was for all practical purposes rescinded by our Departmental Policy and Procedure No. 90-3002, dated August 22, 1986, which says under VII.B. "Waivers and Exceptions: All rent waivers and other exceptions to the Airport fees...must be approved in writing by the Commissioner before the affected lease or contract is issued." I am enclosing a copy of that P&P for your information.

We have asked the Legislature for direction regarding rent for Civil Air Patrol leases on State airports. As Deputy Commissioner Glenzer told you when you and I met with him on February 2, this Region supports the granting of a rent waiver and will recommend that to the Commissioner. However, until we receive guidance from the Legislature or direction from the Commissioner, both the Department and the CAP are bound to the terms and conditions of the existing lease.

Sincerely,



Charles L. Parr, SR/WA
Chief, Airport Leasing

edh

Enclosures: Supplement No. 1 (3)
P&P 90-3002
Copy of Millsap Memo, dtd 10/29/82

cc: H. Glenzer, Jr./Deputy Commissioner/Northern Region
John Hendricks/Airport Manager/Interior District/M & O
Stephen Pavish/Statewide Leasing Coordinator
Troy Sullivan, Alaska Wing Civil Air Patrol/P. O. Box 10-1836/
Anchorage AK 99510

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX Z
JUNEAU, ALASKA 99811-2500
PHONE: (907) 485-3900

OFFICE OF THE COMMISSIONER

August 28, 1987

Mr. Jim Caress
Civil Air Patrol
P.O. Box 630
Barrow, Alaska 99723

Dear Mr. Caress:

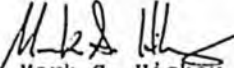
Governor Cowper asked me to respond to your recent message regarding Civil Air Patrol (CAP) land leases at state-operated airports. Your message was an appeal for the state to give CAP relief from paying land rent at state-operated airports.

We appreciate the contributions the CAP makes to aviation in Alaska and are not unsympathetic to CAP's desire for rent-free airport leases. Unfortunately, the current administrative code regulations [17 AAC 40.340 (a)] restrict our department's authority to waive lease rent.

I am inclined to change the administrative code to give us the necessary legal authority. This will not be a quick fix for the CAP rent problem because regulation amendments take time. However, this appears to be the only sure way to solve the issue once and for all.

We currently anticipate the rent waiver regulation changes will probably be prepared as part of a comprehensive amendment of Title 17, Alaska Administrative Code. However, I am asking staff to explore an earlier adjustment to address this matter if possible. Our statewide leasing office will be managing the rural airports segment of this amendment project. If you would like to check on the progress of the project from time to time, please feel free to contact Mr. Steve Pavish, Statewide Leasing Coordinator at 266-1661.

Sincerely,


Mark S. Hickey
Commissioner

cc: Ray Price, Special Staff Assistant,
Office of the Governor
Robert G. Poe Jr., Deputy Commissioner
Budget & Finance
Jon Scribner, Regional Director, Southeast
Region
Steve Pavish, Statewide Leasing Coordinator

MEMORANDUM


State of Alaska
Department of Transportation & Public Facilities

TO: Stephen Pavish
Statewide Leasing Coordinator
Anchorage

DATE: November 2, 1987

FILE NO:

TELEPHONE NO: 451-2217

FROM:  Lynn J. Harnisch, P.E.
Regional Director
Northern Region

SUBJECT: Rent Waiver Request
Barrow Airport
Civil Air Patrol
ADA-70220

COPY

The Alaska Civil Air Patrol (CAP) is a branch of a non-profit corporation established by Congress. The CAP, which receives most of its funding from government sources, performs invaluable services to the State through its Search and Rescue and Disaster Relief Missions.

Presently, the CAP has seven leases on State airports and pays rent only for the Barrow lease. The other six leases are at Birchwood, Fairbanks International, Fort Yukon, Kotzebue, Sitka, and Valdez airports. Last year, the Barrow CAP paid its rent with registration fees from its first annual "Haz Mats" Seminar. The Barrow CAP's annual rent of \$1,500 is due again December 10. Please ask the Commissioner to grant a waiver of rent before that date. We do not want to get into the position of having to cancel the CAP's lease.

The issue of CAP leases has been well discussed, both pro and con. Earlier this year, both Representative Adams and Senator Fahrenkamp requested information from us regarding CAP leases in the State. Copies of our response to their requests were sent to you and the Commissioner's office. In addition, your office has provided the Commissioner with a great deal of information on the subject of rent-free leases in general, and the CAP in particular.

We are familiar with your long standing position on rent waivers -- that existing regulations limit them to specific categories and that entities such as the CAP do not fall into those categories. However, we believe the Commissioner has very broad statutory authority to waive those regulations when he finds it in the State's best interest. We also believe this instance meets that test.

Thank you for your attention to this matter.

edh

cc: Commander Nancy Alley/Civil Air Patrol, 50078/Box 630/Barrow AK 99723
Charles L. Parr/Chief/Airport Leasing/Property Management/Northern Region

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

Mailed 12/1/87
TO WING
STEVE COWPER, GOVERNOR

P.O. BOX 2
JUNEAU, ALASKA 99811-2500

RECEIVED

NOV 24 1987

Barrow Utilities
& Electric Co-op, Inc.

November 10, 1987

COPY

RE: Barrow Airport
Lease Agreement ADA-70220
(Civil Air Patrol)

Mr. James R. Caress
Barrow Utilities and Electric Co-op
P.O. Box 449
Barrow, Alaska 99723

Dear Mr. Caress:

I received your October 22, 1987 letter regarding the rental payment coming due under the Civil Air Patrol's lease at the Barrow Airport. As I indicated in my August 28, 1987 letter, it is our intention to have the Alaska Administrative Code (Title 17) amended to provide clear authority for rent waivers on Civil Air Patrol leases. Our plan is to address the rent waiver issue in a comprehensive amendment of Title 17.

When I wrote to you last August, we fully expected to have the amendment project well underway by now. Unfortunately, we had some unforeseen difficulties locating funds to cover the cost of the legal assistance, public notices, and public hearings that are required for regulation changes. We are making progress in resolving the funding problems, so the project should get underway in the near future.

Changing regulations is a time consuming process, so there is no possibility of having a rent waiver amendment adopted before the rent for the CAP lease at the Barrow Airport comes due in December. Recognizing that and the lease lot development costs that the CAP faces at Barrow, it seems to me that the rent collection delay you requested would be a reasonable solution to the immediate problem. By carbon copy of this letter, I am directing our accounting office in Northern Region to postpone collection of the annual rent due under ADA-70220 until after an amendment of the rent waiver regulation has been adopted.

Although this action does not relieve the CAP of the obligation to eventually pay the rent that accrues before the regulation amendments are adopted, it should help to ease your financial situation for the time being.

Sincerely,

for *Mark S. Hickey*
Mark S. Hickey
Commissioner

cc: Peter Fiorenzi, Administrative Officer, Northern Region
Lynn J. Harnisch, Regional Director, Northern Region
Stephen L. Pavish, Statewide Leasing Coordinator
Robert G. Poe, Jr., Deputy Commissioner, Finance & Budget
D. Randy Simmons, Director, Management & Finance

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