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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SANTA CLARA

11 CHRISTINE DECKER,
12 Plaintiff,
13 vs.

Case No.: 19CV360497
**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

14 COUNTY OF SANTA CLARA, a public
entity, JOE SIMITIAN, CINDY CHAVEZ,
15 MIKE WASSERMAN, DAVE CORTESE, and
SUSAN ELLENBERG, and DOES 1 through
16 50,
17 Defendants.

18 **INTRODUCTION**

19 Reid-Hillview Airport (“RHA”) is a critical public resource. In 2018 alone, it hosted
20 thousands of emergency flights to combat nearby fires. It also operates as a reliever for Norman
21 Y. Mineta San Jose International Airport (“San Jose International”). It secures emergency relief
22 for the County of Santa Clara (“County”) and the Bay Area. Yet the Board of Supervisors
23 (“Board”) wants to shut RHA down.

24 This decision is not only misguided—it puts the public safety at risk. Legally, the Board
25 cannot close the airport. However, in a move calculated to force its closure, the Board has
26 refused grants under the Federal Airport Improvement Program (“AIP”). These grants would
27 fund the basic maintenance needs of RHA and save the taxpayers money. In addition to refusing
28 the federal funding, the Board has failed to make necessary repairs to bring the airport into

1 compliance with Federal Aviation Administration (“FAA”) standards.

2 These decisions, and the continuing poor state of the airport, have already resulted in
3 dangerous incursions and near-misses. Further, to the extent the County has committed any
4 money to the airport, it has used the general fund rather than grants. The County intends to
5 spend \$400,000 of taxpayer money to investigate alternative land uses for RHA—legally, a
6 dead-end.

7 Plaintiff, Christine Decker, on behalf of herself and all other taxpayers of the County of
8 Santa Clara, files this action for declaratory and injunctive relief pursuant to Code of Civil
9 Procedure sections 526 and 526a.

10 Plaintiff alleges as follows:

11 **PARTIES**

12 1. Plaintiff Christine Decker is, and at all times mentioned in this complaint
13 was, a resident of, the City of San José, County of Santa Clara, State of California. Plaintiff is,
14 and at all times mentioned in this complaint has been, a taxpayer of Santa Clara County.
15 Plaintiff has been assessed for and is liable to pay property taxes in the County of Santa Clara, as
16 well as state and federal income taxes, and other taxes. Plaintiff brings this action for herself and
17 for all others similarly situated, since their number is large and it is impracticable to bring all of
18 them before the court in separate actions.

19 2. Defendant County of Santa Clara (the “County”) is a charter county organized
20 and existing under the laws of the State of California.

21 3. Defendant Joe Simitian is a Santa Clara County Supervisor and a member of the
22 Santa Clara County Board of Supervisors and is sued here in his official capacity.

23 4. Defendant Cindy Chavez is a Santa Clara County Supervisor and a member of the
24 Santa Clara County Board of Supervisors and is sued here in her official capacity.

25 5. Defendant Mike Wasserman is a Santa Clara County Supervisor and a member of
26 the Santa Clara County Board of Supervisors and is sued here in his official capacity.

27 6. Defendant Dave Cortese is a Santa Clara County Supervisor and a member of the
28 Santa Clara County Board of Supervisors and is sued here in his official capacity.

7. Defendant Susan Ellenberg is a Santa Clara County Supervisor and a member of the Santa Clara County Board of Supervisors and is sued here in her official capacity.

8. The true names and capacities of Defendants identified as DOES 1 – 50 are unknown to Plaintiff. Plaintiff will amend this Complaint to insert the true names and capacities of those fictitiously named Defendants when they are ascertained.

FACT SUMMARY

9. The FAA designates Reid-Hillview as a reliever airport for San Jose International. RHA is a necessary public resource for Santa Clara County and Northern California, to relieve congestion at San Jose International and to provide improved general aviation access to the region.

10. RHA provides emergency responses and supports medical first response and emergency operations for Bay Area Hospitals. The airport houses Cal Fire operations and the Civil Air Patrol, which provide disaster relief and search-and-rescue during earthquakes and wildfires.

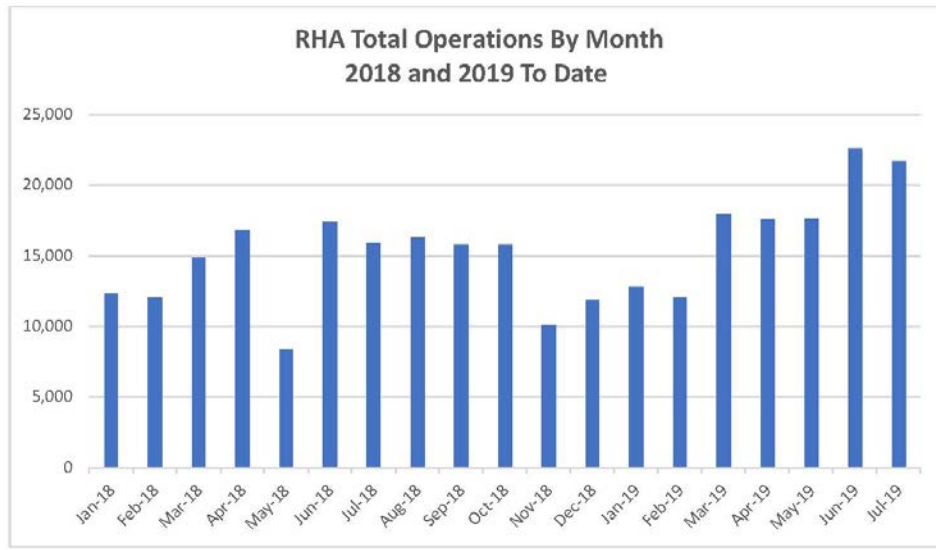
11. Closure of Reid-Hillview would cause increased response times to emergency and disaster relief efforts. RHA has frequently played a critical role in disaster relief. In 2018 alone, the airport hosted tens of thousands of disaster relief operations:¹

Date	Number of Reid-Hillview Operations	Disaster relief
July 2018	15,894	Carr and Mendocino fires.
August 2018	16,337	Carr and Mendocino fires.
September 2018	15,797	Mendocino Complex fire.
November 2018	10,121	Butte County fire.

12. RHA frequently handles more operations per month than San Jose International. The FAA ranked Reid-Hillview airport the ninth busiest airport in the State of California. Closing Reid-Hillview would cause congestion and delays at San Jose International and at the

¹ (Federal Aviation Administration, Air Traffic Activity System, at <<https://aspm.faa.gov/opsnet/sys/airport.asp>> [as of December 17, 2019].)

1 San Martin airport. Recent operations at RHA have surpassed 2018 activity levels:²



11 13. In 1961, the County purchased the private airport that is now Reid-Hillview
12 airport. Since then, the County has entered binding agreements with the Federal Aviation
13 Administration (the “FAA”) regarding the operation of Reid-Hillview airport. In accepting
14 funding through Airport Improvement Program grants (“FAA grants”), the County agreed to a
15 series of thirty-nine (39) grant assurances.

16 14. From 1961 to 2011, all FAA grants contained terms, or “assurances,” to which the
17 County agreed. Among these was the County’s obligation to continue operation of Reid-
18 Hillview airport *in perpetuity* per FAA Airport Compliance Manual Order 5190.6B, section 22.3.
19 These assurances further obligate the County to maintain and operate its airport facilities safely
20 and efficiently, and in accordance with safety standards, including, but not limited to, Assurance
21 11, *Pavement Preventive Maintenance*; and Assurance 19, *Operation and Maintenance*.

22 15. The County must also follow FAA safety standards in maintaining operations at
23 Reid-Hillview. The FAA Runway Safety Program establishes policies and delegates authority
24 for ensuring compliance with FAA safety regulations. The Runway Safety Program further
25 defines incidents as a threat to public safety. “Runway incursions,” generally defined, are the
26 incorrect presence of an aircraft, vehicle, or person on a protected area of the airport designated
27

28 ² *Ibid.*

1 for landing or takeoff of aircraft. A “pilot deviation” occurs when a pilot takes any action that
2 violates Federal Aviation Regulations. A “vehicle or pedestrian deviation” occurs when a
3 pedestrian or vehicle enters any portion of the airport without authorization from air traffic
4 control.

5 16. Recently, the FAA has raised several safety concerns with the County, discussed
6 below. See FAA letter to Joe Simitian, President of the Board of Supervisors, Santa Clara
7 County, dated October 18, 2019.

8 17. The Santa Clara County Airports Commission “fully endorses the letter from the
9 FAA to the Board of Supervisors dated October 18, 2019.” See Santa Clara County Airports
10 Commission letter to Joe Simitian, President of the Board of Supervisors, Santa Clara County,
11 dated December 4, 2019.

12 **GENERAL ALLEGATIONS**

13 18. Despite the assurances given to the FAA, the Board has taken steps to close Reid-
14 Hillview airport, including hiring consultants who specialize in areas of land value, facilities, and
15 non-aviation commercial development to develop a Business Plan Update for the airport. The
16 purpose of the Business Plan Update was to promote the non-aviation use of Reid-Hillview
17 airport property. See County of Santa Clara, Roads and Airports Department, Letter to Housing,
18 Land, Use, Environment, and Transportation Committee, dated September 17, 2018.

19 19. At the Board of Supervisors meeting on May 9, 2017, County staff presented a
20 report that recommended development of an updated business plan for county airports. The
21 Business Plan Update was finalized on or about May 9, 2018.

22 20. The Business Plan Update noted that while the County was eligible to apply for
23 FAA grants, it had not accepted any since 2011. The decision not to accept additional grants has
24 allowed Reid-Hillview airport to decline.

25 21. In May, 2018, the County General Fund loaned approximately \$3 million
26 taxpayer dollars to the Airport Enterprise Fund (“AEF”) to pay for paving projects at the Reid-
27 Hillview and San Martin airports.

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1 22. However, to date, the paving work on taxi-ways at Reid-Hillview does not satisfy
2 FAA standards. During paving, instead of moving the aircraft, the workers paved around the
3 aircraft:



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16 23. As another example, the repainted lettering for “no vehicles” was misspelled as
17 “no vehicles:”



1 24. On December 4, 2018, the Board of Supervisors voted to stop accepting new FAA
2 grants for Reid-Hillview airport, to investigate possible alternative uses of Reid-Hillview airport
3 after 2031, to consolidate the County’s aviation uses to San Martin Airport, and to develop a plan
4 to implement improvements necessary at San Martin airport.

5 25. The December 4, 2018 vote demonstrated the County’s plans to close Reid-
6 Hillview Airport in 2031. If the County does not apply for and accept FAA grants, then Reid-
7 Hillview airport will continue to lose funding and fall into disrepair.

8 26. Given that the County has refused to accept new federal grants, going forward, for
9 maintenance and operation of Reid-Hillview airport, the County General Fund must now loan
10 funds to the AEF. The County’s General Fund, which receives property taxes, supports basic
11 services and programs in the County, including public safety, parks and recreation, community
12 development, and more.

13 27. Regarding the County’s plans to investigate alternative uses for Reid-Hillview
14 airport after 2031, the County has not requested a release from its obligations to the FAA under
15 the grant agreements.

16 28. Concerning the decision to consolidate the County’s aviation uses at San Martin
17 airport, the County will need to make substantial improvements to that airport if it intends the
18 airport to serve the same functions as RHA.

19 29. Per the FAA, Reid-Hillview airport has several uncorrected problems related to
20 Airport signage and markings. Runway destination signs are non-standard, and they are located
21 in non-standard locations. The FAA raised concerns that: “The presence of non-standard
22 signage, and the poor condition of the airfield signage and marking at RHV increases the risk of
23 the loss of situation awareness for pilots and vehicle drivers.” See FAA letter to Joe Simitian,
24 President of the Board of Supervisors, Santa Clara County, dated October 18, 2019.

25 30. The uncorrected safety problems have decreased public safety. There has been an
26 increase in the number of runway incursions at Reid-Hillview airport involving vehicles,
27 pedestrians, and pilots. In 2019, at Reid-Hillview airport there have been at least three (3)
28 vehicle/pedestrian and four (4) pilot deviations from FAA safety standards. (*Id.*)

1 31. The County has not maintained taxi-way markings in violation of safety
2 obligations. On the Zulu taxi-way at Reid-Hillview airport, rather than install the required taxi-
3 way lights, the County only installed reflectors. Pilots traveling on the taxi-way at night cannot
4 see the taxi-way unless the aircraft lighting is on. Proper lights should be installed in order to
5 comply with FAA standards:



16 32. On May 21, 2019, the County's Board of Supervisors allocated \$400,000 of
17 taxpayer funds for consultant services to study alternative land uses for the airport. The County
18 has allocated \$400,000 towards a land use plan for the site of Reid-Hillview Airport, despite the
19 County's obligation arising out of its acceptance of the FAA grants to maintain the property for
20 airport activities *in perpetuity* per FAA manual 5190.6B, section 22.3.

21 33. Plaintiff is informed and believes that the \$400,000 allocated to seeking
22 alternative land use for the site at Reid-Hillview will be transferred from the General Fund's
23 Contingency Reserve to the Facilities and Fleet Department. Citing its own neglect and
24 mismanagement of Reid-Hillview airport, the County is now expending taxpayer monies to
25 investigate alternative land uses for the airport to further the County's plan to close Reid-
26 Hillview, rather than correct conditions at the airport.

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1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Illegal Expenditure of Taxpayer Funds**

4 **(Against All Defendants Under Cal. Code Civ. Proc., § 526a)**

5 34. Plaintiff incorporates by reference the allegations set forth in paragraphs 1
6 through 33 of this Complaint.

7 35. Plaintiff has been assessed and found liable to pay taxes such as property, income
8 and other taxes in Santa Clara County where she resides. She also pays taxes to the State of
9 California and United States of America, in the last year.

10 36. Plaintiff brings this cause as a citizen-taxpayer action under California Code of
11 Civil Procedure section 526a.

12 37. Defendants' expenditure of public funds, including, but not limited to, \$400,000
13 to study alternate land uses for Reid-Hillview airport, as challenged herein, furthers an unlawful
14 objective – closure of Reid-Hillview in violation of the County's legal obligation to maintain
15 Reid-Hillview in perpetuity. The County's expenditure of taxpayer money to implement,
16 enforce, or otherwise carry out the illegal policies and practices complained herein constitutes
17 illegal expenditure of public funds within the meaning of Code of Civil Procedure section 526a.

18 38. Plaintiff, as a state and county taxpayer, has an interest in enjoining the unlawful
19 expenditure of tax funds. Pursuant to California Civil Procedure Code section 526a and this
20 Court's equitable power, Plaintiff seeks declaratory and injunctive relief to prevent continued
21 harm to the public and to protect Plaintiff and the public from Defendants' continued spending to
22 study land uses that are prohibited by the FAA grant agreements, as alleged herein.

23 39. There is an actual controversy between Plaintiff and Defendants concerning their
24 respective rights and duties, in that Plaintiff contends that Defendants have unlawfully
25 administered and implemented public funds, and have failed to satisfy their duty to act, as
26 alleged herein, whereas Defendants contend in all respects to the contrary. Plaintiff seeks a
27 judicial declaration of the rights and duties of the respective parties with respect to the instant
28 matter.

1 40. Unless and until Defendants’ unlawful policies and practices, as alleged herein,
2 are enjoined by order of this Court, the County will continue to spend the money of the County
3 in furtherance of their illegal policies and practices, causing irreparable injury to Plaintiff and
4 other taxpayers of the County.

5 41. Plaintiff and the taxpayers of the County have no plain, adequate, or speedy
6 remedy at law and are entitled to injunctive relief against defendant. Plaintiff has no
7 administrative remedy because defendants’ policies and practices preclude any administrative
8 relief.

9 42. Plaintiff brings this action as a private Attorney General, to vindicate and enforce
10 an important right affecting the public interest. Plaintiff is entitled to an award of attorneys’ fees
11 and expenses under Code of Civil Procedure section 1021.5 for bringing this action.

12 **REQUEST FOR RELIEF**

13 WHEREFORE, Plaintiff respectfully requests the following relief:

14 1. For an order permanently enjoining Defendants and their officers, agents, and
15 employees pursuant to California Code of Civil Procedure section 526a from taking any action to
16 implement or carry out studies of alternate uses of the site of Reid-Hillview airport, including,
17 but not limited to, expending any taxpayer monies on the study of alternate land uses for Reid-
18 Hillview airport;

19 2. For a permanent injunction requiring Defendants and their officers, agents, and
20 employees to comply with the FAA grant assurances currently in effect;

21 3. A declaration, order, and judgment that Defendants may not expend public funds
22 on projects that do not comply with the County’s obligations under the FAA grants, including,
23 but not limited to, spending any taxpayer monies to study land uses that would be unlawful if
24 implemented;

25 4. An award of costs and reasonable attorneys’ fees and expenses pursuant to
26 California Code of Civil Procedure section 1021.5 and any other applicable provisions of law;
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5. For such other and further relief as the Court may deem just and proper.

DATED: December 19, 2019

McMANIS FAULKNER



JAMES McMANIS
TYLER ATKINSON
MAYA YOUNES

Attorneys for Plaintiff, CHRISTINE DECKER