

COUNTY COUNSEL  
LOUIS B. GREEN

CHIEF ASS'T. COUNTY COUNSEL  
EDWARD L. KNAPP

PRINCIPAL ASS'T COUNTY COUNSEL  
PATRICIA E. BECK

DEPUTY COUNTY COUNSEL  
JUDITH M. KERR  
REBECCA C. SUDTELL  
PAULA F. FRANTZ  
MICHAEL J. CICCOTZI

**EL DORADO COUNTY  
OFFICE OF  
THE COUNTY COUNSEL**



COUNTY GOVERNMENT  
CENTER  
330 FAIR LANE  
PLACERVILLE, CA  
95667  
**(530) 621-5770**  
**FAX# (530) 621-2937**

DEPUTY COUNTY COUNSEL  
BETH A. MCCOURT  
DAVID A. LIVINGSTON  
SCOTT C. STARR  
TERI M. MONTEROSSO  
LESLEY B. GOMES

July 25, 2008

Board of Supervisors  
County of El Dorado  
330 Fair Lane  
Placerville, CA 95667

Honorable Board:

**SUBJECT:**

Adoption of an ordinance to extend the suspension of Ordinance Code section 17.38.062, Avigation and Noise Easement Required, for a period of 10 months and 15 days to allow the Department and County Counsel staff to complete the study of and revision of the section so as to comply with constitutional limitations as interpreted by court decisions since the original adoption of the section.

**RECOMMENDATION:**

Adopt the ordinance extending the temporary suspension of Ordinance Code section 17.38.062 for a period of 10 months and 15 days to allow the Department and County Counsel staff to continue to study and finalize the revisions of section 17.38.062 so as to comply with the constitutional limitations the courts have expressed concerning similar regulations.

**REASON FOR RECOMMENDATION:**

On June 17, 2008 pursuant to Government Code section 65858, this Board enacted Ordinance Number 4779 imposing a 45 day suspension of Ordinance Code section 17.38.062 to allow staff and County Counsel to study the possibility of revisions to that section so as to comply with the constitutional limitations as interpreted by the courts since the adoption of the original section.

Ordinance Code section 17.38.062 reads in pertinent part:

“No permit of any type shall be issued for any development or activity subject to the airport safety (AA) regulations until the county is provided with an avigation and noise easement granting the right of flight over and above the subject property. Such easement shall be supplied in a form prescribed by the county and shall be recorded on the title of the subject property.”

On July 7, 2008 a meeting was held to discuss revision of Ordinance Code section 17.38.062. The meeting was attended by representatives of the El Dorado County Development Services Department, El Dorado County Department of Transportation, El Dorado County Counsel’s office, and Cameron Park Airport District.

On July 24, 2008 a second meeting was held to discuss revision of Ordinance Code section 17.38.062. The meeting was attended by representatives of El Dorado County Development Services, El Dorado County Counsel’s office, El Dorado County Department of Transportation, Cameron Park Airport District, El Dorado County Transportation Commission and the State of California Department of Transportation, Division of Aeronautics.

The meetings of July 7, 2008 and July 24, 2008 have raised issues of both local and statewide concern that must be addressed prior to completing the final draft revisions to section 17.38.062. These issues require additional time for the interested parties to continue to meet and address. The issues being addressed include when and under what circumstances a noise and/or avigation easement might be required; the extent of such an easement; and when and under what circumstances an application should be reviewed by the airport land use commission.

Government Code section 65858 provides that the suspension may be extended for a period of 10 months and 15 days.

The interested parties will continue to meet to resolve the remaining issues regarding the revision of the Ordinance Code section in a manner that adequately balances the property rights of the property owners and the need to preserve the safe operation of the airports.

The adoption of this ordinance extending the stay/suspension of Ordinance Code section 17.38.062 is necessary to protect the public health, welfare and safety. The facts supporting the extension are that the enforcement of Ordinance Code section 17.38.062 may result in an undue intrusion upon the property rights of individuals seeking to engage in otherwise lawful development or activity within an Airport Safety District that does not interfere with the airport operations or the safety of the persons on the ground in the area of the airport.

**FISCAL IMPACT:**

The continued temporary suspension of Ordinance Code section 17.38.062 will have no fiscal impact on the County.

**ACTION TO BE TAKEN FOLLOWING APPROVAL:**

Department staff, County Counsel and other interested parties will continue to study the issues surrounding the revision of section 17.38.062 to be brought to the Board for approval.

Very Truly Yours,

LOUIS B. GREEN  
County Counsel

By:   
Michael J. Ciccozzi  
Deputy County Counsel

MJC:km