

Saturday, September 18, 1999

\$4.6 million settles airport-noise suit

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About 105 homeowners irritated by excessive aircraft noise near Toledo Express Airport have agreed to a \$4.6 million settlement with the Toledo-Lucas County Port Authority.

The settlement, approved yesterday by the port's board of directors, ends a legal battle that began in 1993 and threatened to bankrupt the port authority.

A visiting judge in Fulton County Common Pleas Court ruled in April that the port authority created a nuisance in enticing Burlington Air Express, now BAX Global, Inc., to locate an air-cargo hub at the airport. In Lucas County Common Pleas Court, Judge Robert Christiansen found in July that the port authority was not immune from liability.

Early estimates of the damages that juries might award were as high as \$10 million.

"I think it's a very good settlement," said Jerry Chabler, a port board member. "It saves the port authority and the taxpayers a helluva lot of money."

Also at yesterday's meeting, the port board approved a \$15 million bond issue for Toledo Museum of Art renovations, contracts to demolish the Airport Motel, and a Lucas County residency requirement for employees.

In the airport suit, the board yesterday approved two settlements: one with the homeowners, the other with an insurer that had balked at covering the port authority's liability in the noise case.

Coregis Insurance has agreed to pay \$3.5 million, settling a U.S. District Court lawsuit that the port authority had filed against the company. An insurance consortium known as the London Cos. has agreed to pay \$200,000, leaving the port authority on the hook for the remaining \$900,000 of the \$4.6 million settlement.

The port authority will dip into its \$2.9 million reserves to come up with the \$900,000, said James Hartung, the port authority's president. That leaves the reserve "tissue-paper thin," he said.

In hopes of recovering the \$900,000, plus about \$1.5 million in legal expenses associated with the case, the port authority is pressing ahead with a U.S. District Court lawsuit against the London Cos. If successful in the litigation, the port authority could restore its reserves while paying off its legal expenses.

David Zoll, attorney for the homeowners, emphasized that more than money was involved in the settlement.

Besides agreeing to pay \$4.6 million, the port authority committed to performing a study that would determine whether BAX Global could reroute its

departures over less densely populated areas. In addition, the port authority, pending Federal Aviation Administration approval, will establish sales-assistance and purchase-assurance programs for some of the homes exposed to the most aircraft noise.

"Responsible airport operators accept responsibility for the damages created by the noise generated by the airport operations," Mr. Zoll said in a statement. "The commitments made by the port authority in the settlement agreement place it in the ranks of responsible airport operators."

The port authority, despite agreeing to the settlement, continues to deny any wrongdoing or legal responsibility in connection with noise at Toledo Express, Mr. Hartung said.

But Mr. Zoll stated that the settlement "illustrates a recognition by the port authority that airport expansion should not be at the expense of a few. While jobs are important, so is the quality of life of people living in the community."

Michelle Kranz, another attorney representing the homeowners, declined to disclose how the homeowners will divide the \$4.6 million.

Homeowners contacted yesterday afternoon declined to comment.

In other action at yesterday's meeting, the port board:

Approved issuing \$15 million in bonds for the Toledo Museum of Art.

The bond money will pay for maintenance and renovation work, including the conversion of the Professional Building at Monroe Street and Parkwood Avenue into a facility for community arts groups. A variety of structural, electrical, and mechanical repairs to the 87-year-old museum building will be funded with bond proceeds.

The port authority frequently issues bonds for local businesses and nonprofit groups to save them money on interest.

Awarded contracts to the lowest bidders for the demolition of the Airport Motel.

United Enviro-Tech of Brighton, Mich., submitted the low bid for asbestos removal at \$12,960. Homrich, Inc., of Carleton, Mich., submitted the low demolition bid at \$33,330.

The asbestos-removal and demolition work, which will take an estimated four weeks, is set to begin next month.

Authorized the port board's human resources committee to develop and implement a Lucas County residency requirement for port authority employees.

The requirement, under a resolution approved yesterday, would apply to about 35 nonunion positions, including those of top administrators, but would exempt union workers. The resolution directs Mr. Hartung to press for a Lucas County residency requirement in upcoming contract negotiations with union members.

A grandfather clause would allow current employees living outside Lucas

County to remain in their homes. Port records show that 19 of the agency's 71 employees - or 27 per cent - live outside Lucas County.