

# Joint Stormwater System Improvements: Federal District Court Addresses Fixed Base Operator/Airport Dispute



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03/21/2022

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A United States District Court (Southern District – New York) (“Court”) addressed in a March 11th Opinion issues arising in a dispute between a County-owned airport and a fixed-based operator (“FBO”) regarding proposed leasehold improvements. See *White Plains Aviation Partners, LLC, d/b/a Million Air White Plains v. County of Westchester*, No. 21 CV 5312 (VB), 2022 WL 743434.

A focus of the dispute was responsibility for construction of a joint stormwater system.

Million Air White Plains (“Million Air”) and the County of Westchester, New York (“County”) entered into a lease agreement for Million Air to operate a commercial FBO at Westchester County Airport and provide services for private aircraft, passengers, and pilots. The Lease authorized Million Air to construct “Proposed Improvements” to the leased premises.

The Proposed Improvements included expanding and refurbishing the existing terminal building and building a new hangar (the “Modified Hangar”) separate from the existing hangar. Improvements to the existing hangar were not included.

The Lease was negotiated with the understanding that Million Air would construct the Modified Hangar after completing the Proposed Improvements. However, the County denied Million Air’s request to construct the Modified Hangar because environmental and other regulatory approvals needed to be obtained.

The County subsequently expressed support for the construction of a Modified Hangar through an amended lease. Further, it directed Million Air to submit plans for a joint stormwater system and environmental assessment for the Proposed Improvements and Modified Hangar. However, after negotiations towards an amended lease, the County demanded that Million Air implement the stormwater system for the Proposed Improvements alone as a condition to executing the amended lease.

As a result of failing to construct the Modified Hangar and implementing the stormwater system for the Proposed Improvements, Million Air alleged it incurred damages.

The company filed an action against County alleging:

- breach of contract; and
- breach of the implied covenant of good faith and fair dealing.

In response to the Million Air breach of contract claim, the Court found the lease agreement to be unambiguous. It determined the County did not breach the Lease because Million Air's plans to construct the Modified Hangar were not required for the Proposed Improvements.

Million Air also alleged that the County breached the implied covenant of good faith and fair dealing by unreasonably withholding approval of the Modified Hangar. It argued that the County acted in bad faith by changing its position regarding a stormwater system.

The Court granted a motion to dismiss Million Air's claim that the County unreasonably rejected the Modified Hangar plans in violation of the Lease. It was deemed redundant of the breach of contract claim.

Nevertheless, the Court found that Million Air's claim regarding the stormwater system plans to be sufficient to survive a motion to dismiss. The Court noted that the County directed Million Air to prepare a joint stormwater system plan for the Proposed Improvements and Modified Hangar. It determined that the County demanded that Million Air implement a stormwater management system for the Proposed Improvements alone as a condition to the County executing an amended lease approving the Modified Hangar.

The holding was based on its determination that County advanced multiple inconsistent and bad-faith positions regarding the required stormwater system. These were held to have deprived Million Air of the benefits of the Proposed Improvements covered by the Lease. The Court therefore denied the County's motion to dismiss Million Air's implied covenant claim with respect to the stormwater system.

A copy of the Opinion can be downloaded [here](#).