



Aircraft Owners and Pilots Association
your freedom to *fly*

AOPA South Africa has for many years been a strong proponent of the development and protection of general aviation airfields in South Africa. Private, corporate and many commercial aviation operations are, of course, totally dependent upon such smaller airfields for access, hangarage and general freedom of movement by air in Southern Africa.

You are no doubt aware that our Civil Aviation Authority (CAA) has for over ten years been attempting to introduce regulations requiring all airfields to be licensed or "registered", with major adverse ramifications and costs for all of our currently unlicensed airfields.

Some five years ago, an airfield was proposed for development in the Gauteng area with the intention that it provides much needed facilities for aircraft owners, operators and pilots in the Johannesburg and Pretoria areas. It was agreed (and CAA insisted) that it would be appropriate that the airfield be licensed, since it would be intended for public use in our most densely populated province. The very detailed proposal was thoroughly debated at the National Airspace Committee and the experts on that committee recommended to the Director of CAA that such a licence be granted.

The license was however refused by the Director without any cogent reasons being given. The decision of the Director was then taken up with the CAA's Civil Aviation Appeal Committee (CAAC). After some three full days of evidence and opinion being heard under oath from CAA personnel (including the director herself), ATNS, nearby major airports and other possibly affected parties, the CAAC ruled that the development should go ahead and the Director was ordered to issue an aerodrome license.

Considering its importance to general aviation, AOPA provided considerable assistance in this process and we are very gratified at the comprehensive and thoughtful judgment that was handed down by the CAAC on 3 June 2013. CAA Director Poppy Khoza and the CAA executive responsible for aerodromes, Gawie Bestbier, were present when the CAAC's judgment was read and typed copies of the judgment were handed out. The applicant for the licence thus went ahead with the various approvals, designs and other expensive procedures in the hope that aircraft owners, operators and pilots would invest in this project for their own hangars and other common facilities.

Nearly two years after the CAAC judgment and long after any possible appeal would have lapsed, CAA brought an application to the High Court begging that they be granted forgiveness for having taken such an inordinately long time to suddenly wake up and want to appeal against the 2013 CAAC judgment. The basis of their extreme lateness was, surprisingly, that they did not know about the judgment. Since bringing the application, CAA have used every trick in the book to delay the matter, thus creating uncertainty for potential investors in the airfield project.

Clearly, CAA appears to be taking the approach of destroying our many small airfields by forcing them to be licensed or registered in some way - and then refusing to grant applications to do so. They have cited obscure national security concerns as being the basis of their fickleness.

This case is remarkable in that, not only was the licence applicant cited as a respondent in the matter, but the Civil Aviation Appeals Committee itself, the Ministers of Transport and Defence and a couple of other airports were also cited in a matter in which the CAA is only asking the court for an indulgence, which has never been opposed or endorsed by these other entities. Most surprising is the CAAC being cited, since it is an intrinsic part of CAA. As such, CAA is bringing a lawsuit against itself and against the very government that it is part of.

The CAAC judgment is a very important precedent which helps thwart CAA from capriciously interfering with legitimate airfields, but that judgment is under attack to the detriment of aviation in South Africa. AOPA has therefore recommended that opposition to the application, which is to be heard next week on 13 June 2017, be argued by a senior advocate. Indeed, both the attorney of record and counsel are pilots and aircraft owners themselves and therefore know whereof they speak. It would be very undesirable for us all if this matter is compromised by skimping on legal representation.

We are therefore urgently requesting contributions from aircraft owners, operators, pilots and airfield owners to help bar CAA from unnecessarily interfering with our freedom to fly and for us all to be able to continue to pursue our legitimate business and private interests.

Fortunately, the lawyers have given us a substantially discounted rate and we are needing to only raise about R50 000 for this round of needless litigation. We ask that all aviators please put funds towards this case, no matter how small that contribution may be.

A lawyers' trust account has been set up solely for airfield-related litigation, so contributions may be deposited in the following account:

Ron Wheeldon Attorneys Trust Account

Nedbank Parkview

Account number 1944 195 769

AOPA wishes to assure all interested persons that every effort is being made to protect us all from the uncaring and often hostile actions of our government and its regulator. Please do your bit to help out.

I have included below a link to a Google Drive folder that contains all the documents relating to the case. In particular, the Practice Note and HOA contains the heads of argument prepared and filed by attorney and counsel, which briefly sets out the basis upon which CAA's application is being opposed.

<https://drive.google.com/open?id=0Bx0htsKUUz8mbXBZTVpPX2Y0c1U>

Yours faithfully

Chris Martinus

President

Aircraft Owners and Pilots Association - South Africa

