



Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

ORDER DENYING REHEARING

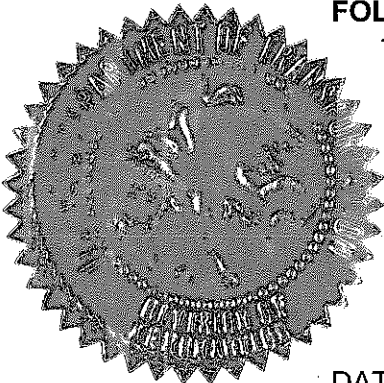
In re: The Matter of the Children's Memorial Hospital Rooftop Heliport to be located at 225 E. Chicago Avenue, Chicago, Illinois.

1. On August 4, 2008, Children's Memorial Hospital (CMH) filed an application for approval of a hospital heliport, owned and operated by CMH, to be known as Lurie Children's Heliport (the Heliport) and to be located in Chicago in Cook County, Illinois at 225 E. Chicago Avenue.
2. On September 9, 2008, the Illinois Department of Transportation (IDOT), Division of Aeronautics (the Division) issued a Notice of intent to enter an Order approving the application for the Heliport.
3. On April 14, 2009, the Division issued an Order to be served April 23, 2009, approving the application for the Heliport.
4. The Order, dated April 14, 2009, provided it would take effect twenty (20) days after its service date, unless the Division found a hearing necessary or a longer period appropriate.
5. Finding a hearing necessary, the Division issued a Notice of Hearing on June 15, 2009 and a Notice of Continuation of Hearing on May 31, 2011. On July 22, 23, 24, and 25, 2009 and June 23 and 24, 2011, the Division conducted a continued hearing on the application.
6. On October 14, 2011, the Division issued a Supplemental Order that presented its findings and affirmed the April 14, 2009 Order.
7. Pursuant to 620 ILCS 5/64 (2011), the Streeterville Organization for Active Residents (SOAR), filed an Application for Rehearing on November 10, 2011.
8. On November 22, 2011, CMH filed a Memorandum in Opposition to SOAR's Application for Rehearing.
9. In response to the Application for Rehearing, the Division states as follows:
 - a. SOAR stated IDOT only analyzed the nine minimum factors and failed to examine safety. Response: the factors contained in the Illinois Aeronautics Act and the Illinois Administrative Code were analyzed, as well as safety, as discussed in Section III.C of the Supplemental Order.
 - b. SOAR stated IDOT shifted the burden of proof from CMH, the applicant, to SOAR, the objector. Response: by concluding that SOAR's arguments were unpersuasive, IDOT did not shift the burden of proof to SOAR.
 - c. SOAR stated IDOT ignored an alleged lack of escape routes for aborted landings. Response: escape routes are not legally mandated by the Illinois Aeronautics Act or IDOT's Aviation Safety Rules.
 - d. SOAR stated IDOT did not conduct a safety analysis. Response: safety is discussed in Section III.C of the Supplemental Order.

- e. SOAR stated IDOT ignored evidence of lack of accurate wind information. Response: CMH's wind direction/velocity indicators are discussed in Sections III.B.4 and III.C.3 of the Supplemental Order.
- f. SOAR stated IDOT ignored the lack of emergency landing areas. Response: the City of Chicago's requirement for emergency landing areas and its inapplicability to IDOT were discussed in Section III.C.2 of the Supplemental Order.
- g. SOAR stated IDOT erroneously used the "Analysis of Urban Airwake Effects on Heliport Operations at the Chicago Children's Memorial Hospital" by Dr. Joseph Horn and Continuum Dynamics (CDI) as a safety study. Response: in Section III.C.3 of the Supplemental Order IDOT consistently refers to Dr. Horn and CDI's findings as a wind study and relies upon them as such.
- h. SOAR stated IDOT did not determine whether Federal Aviation Administration's (FAA) Advisory Circular 150/5390-2(b) applies to the heliport. Response: the FAA determines the applicability of its own advisory circulars, and it granted CMH a favorable airspace determination in its August 18, 2008 Notice of Federal Airspace Determination.
- i. SOAR stated cross-examination was not permitted during the hearing. Response: the Administrative Law Judge correctly denied SOAR's request for cross-examination in Order No. 1, dated May 1, 2009, on the basis that the hearing was an informational and investigative process 620 ILCS 5/51 and is not governed by the Illinois Administrative Procedure Act 5 ILCS 100/1-5.
- j. SOAR stated IDOT considered evidence outside of the record and improperly limited evidence during the 2011 portion of the Continuing Hearing. Response: IDOT provided all of the information upon which it relied in formulating its decision, the Administrative Record, on an IDOT webpage created for that sole purpose. Moreover, SOAR makes a contradictory argument by stating that all information submitted after the 2009 Continuing Hearing, including the testimony at the 2011 Continuing Hearing, is inadmissible, while also arguing that the scope of the 2011 Continuing Hearing was overly narrow.
- k. SOAR stated IDOT displayed a bias towards CMH. Response: IDOT conducted an open, thoughtful, and unbiased analysis of CMH's application.

IT IS, THEREFORE, ORDERED BY THE DIVISION OF AERONAUTICS AS FOLLOWS:

1. SOAR'S Application for Rehearing on the CMH Heliport application is denied.



Susan R. Shea
Susan R. Shea, Ph.D.
Director of Aeronautics

DATED: 11-30-11

TO BE SERVED: 11-30-11