



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

County Counsel

DATE: November 28, 2005

BOARD MEETING DATE: December 13, 2005

SPECIAL NOTICE/HEARING: None

VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: County Counsel

SUBJECT: Claim for Property Tax Refund by United Airlines for the 2001 Tax Year

RECOMMENDATION:

Deny the claim of United Airlines, Inc. ("United") for refund of property taxes paid in the amount of \$4,283,092, plus interest, for the 2001 tax year for United's commercial aircraft and related spare parts, accessories and other personal property located in San Mateo County.

BACKGROUND:

The Assessor assessed to United, as of lien date January 1, 2001, United's commercial aircraft and related spare parts, accessories and other personal property, located in San Mateo County. On the basis of said assessment, taxes were levied on said personal property in the sum of \$22,061,179.93, and paid by United in full on August 29, 2001. United filed appeals with the Assessment Appeals Board (the "AAB") to reduce said assessments. These appeals were heard by the AAB, and the AAB found that the Assessor had correctly valued the aircraft, spare parts and accessories. With this claim, United is alleging that the AAB decision was incorrect and that United is entitled to a refund of a portion of said taxes in the amount of \$4,283,092, plus interest thereon, on the grounds that said taxes were erroneously and illegally assessed, levied and collected.

DISCUSSION:

United offers no new substantive information or arguments in connection with the

Honorable Board of Supervisors
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AAB hearings. This current claim by United is based on arguments that the AAB erred in that it made incorrect findings, conclusions and decisions. We believe that the Assessment Appeals Board decision was correctly decided.

FISCAL IMPACT:

No fiscal impact is anticipated, unless the claim for refund is granted.

CLAIM FOR REFUND OF PROPERTY TAXES

To: The Board of Supervisors, County of San Mateo

The undersigned, as authorized agent for United Airlines, Inc., the Claimant herein, hereby makes this claim for refund of taxes on behalf of the Claimant pursuant to Revenue and Taxation Code §§ 5096 and 5097, and demands that the Board of Supervisors make its order directing the controller of said County to refund to Claimant the sum of \$4,283,092 in taxes levied as of lien date January 1, 2001, plus interest thereon. In support of said claim the undersigned is informed and believes, and based thereon states:

1. Claimant is and at all times herein mentioned was a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business located at 1200 East Algonquin Road, Elk Grove Township, Illinois 60007.

2. The assessor of San Mateo County assessed to Claimant as of lien date January 1, 2001, certain property described as follows: commercial aircraft and related spare parts, accessories and other personal property, located in San Mateo County. On the basis of said assessment, taxes were levied on said property in the sum of \$22,061,179.93, and paid by Claimant in full on August 29, 2001. Claimant timely filed applications to reduce said assessments, which applications were denied by the San Mateo County Assessment Appeals Board (the "AAB"). Claimant is entitled to a refund of a portion of said taxes in the amount of \$4,283,092, plus interest thereon, on the grounds that said taxes were erroneously and illegally assessed, levied and collected, in the following particulars, among others:

a. The AAB failed to reduce Claimant's assessment in accordance with Revenue and Taxation Code section 401.15.

- b. The AAB erroneously either failed to consider, or disregarded, Claimant's evidence, in violation of California Code of Regulations, title 18, sections 321 and 324.
- c. The AAB failed to make findings on all material points raised at the hearing on Claimant's applications, in violation of California Code of Regulations, title 18, section 324(e).
- d. In denying Claimant's applications, the AAB committed legal errors, acted arbitrarily, abused its discretion and failed to follow the standards prescribed by law.
- e. The AAB's findings were not supported by substantial evidence.
- f. The AAB imposed an erroneous burden of proof upon Claimant, and erroneously applied the assessor's presumption of correctness.
- g. The AAB erroneously ignored the fleet discount applicable to Claimant's property, on the ground that the "relevant unit" most likely to be bought and sold is an individual aircraft.
- h. The AAB improperly concluded that evidence that the airline industry was in a cyclical downturn at the relevant lien date was irrelevant to, and could not satisfy the definition of, "extraordinary obsolescence." Accordingly, the AAB improperly disregarded evidence of the reduced value of Claimant's property as of the January 1, 2001 lien date.
- i. The AAB employed an erroneous definition of "extraordinary obsolescence."
- j. The AAB improperly and incorrectly claimed that Claimant contended that the value of property depends upon who owns it. Claimant made no such contention. Based upon its incorrect characterization of Claimant's position, the AAB erroneously disregarded evidence of Claimant's business circumstances as evidence of industry-wide business conditions. To the extent the AAB acknowledged that Claimant had presented evidence of industry-wide conditions, the AAB improperly and inconsistently cited Claimant's particular business circumstances as evidence that industry-wide conditions were not determinative of the value of

Claimant's property. Similarly, the AAB relied on information specific to Claimant's operations to support its rejection of Claimant's evidence of value under the income approach and as to the appropriate capitalization rate to be used under said approach. Thus, it was the AAB that improperly valued the subject property by reference to who owns it.

k. The AAB improperly disregarded evidence presented by Claimant based upon the AAB's conclusion that such evidence did not meet the AAB's erroneous definition of "market evidence."

l. The AAB erroneously concluded that the Legislature deemed the Airliner Price Guide to be sufficiently reliable to set "definitive figures for purposes of valuing many categories of commercial aircraft." Because of this error, the AAB gave undue and inappropriate weight to the Airliner Price Guide.

m. The AAB erroneously equated a commissioned appraisal with the information set forth in the Airliner Price Guide.

n. The AAB inappropriately concluded that inclusion of the Airliner Price Guide in Revenue and Taxation Code section 401.15, as part of "settlement" negotiations, is an admission that "the airlines" endorsed the Guide's reliability, when the statute's structure demonstrates that the airline industry did not have confidence that the Guide would reliably account for the economic obsolescence to which aircraft is subject.

o. The AAB erroneously rejected Claimant's alternative approaches to valuing the subject property.

p. The AAB speculated that Claimant was in possession of meaningful evidence (concerning Claimant's efforts to acquire US Airways) that Claimant did not present at the hearing, and improperly drew an adverse inference from this speculation.

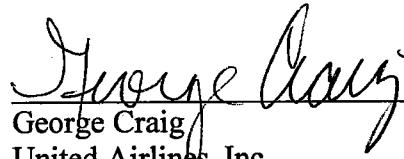
q. The AAB erroneously concluded that the assessor's cost approach accounts for

any economic obsolescence suffered by Claimant's aircraft.

3. No refund of said taxes, or any part thereof, has previously been made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: August 24, 2005 at Elk Grove Twp, Illinois.


George Craig
United Airlines, Inc.
1200 East Algonquin Road
Elk Grove Township, Illinois 60007