

Airport Ground Leases - General Considerations

Airport ground leases are contracts between an airport and a tenant (often a hangar owner or aviation business) that grant the tenant the right to use airport land for a specific term

These leases are typically subject to Federal Aviation Administration (FAA) requirements, also known as grant assurances. Here's a breakdown of what protects airport ground leases from arbitrary revocation after the lease term expires:

1. Lease Agreements and Renewal Options:

- **Clearly Defined Terms:** Ground leases typically include specific terms, such as the initial lease duration (e.g., 20 years), renewal options (e.g., one or more 5-year renewals), and conditions for renewal.
- **Renewal Process:** Leases often outline a process for renewal, which may include providing notice of intent to renew, negotiation of new lease rates, and other conditions.
- **Protection Against Arbitrary Non-Renewal:** If a lease includes a renewal option and the tenant fulfills the conditions for renewal, the airport cannot arbitrarily refuse to renew the lease.

2. FAA Grant Assurances:

- **Obligations for Federally Funded Airports:** Airports that have received federal funding are subject to FAA grant assurances, which place obligations on the airport sponsor.
- **Protection of Airport Control:** These grant assurances prohibit the airport from taking actions that would deprive it of its rights and powers to direct and control airport development.
- **Fair and Reasonable Terms:** Grant assurances may require airports to offer leases on fair and reasonable terms, preventing them from imposing onerous conditions that would effectively force a tenant to leave.

3. Reversion Clauses:

- **Transfer of Improvements:** Reversion clauses address what happens to improvements made by the tenant at the end of the lease term.
- **Ownership Reverts to Airport:** Typically, ownership of improvements (e.g., hangars) reverts to the airport sponsor at the end of the lease period.
- **FAA Encouragement:** The FAA encourages reversion clauses to clarify what happens at lease termination, but they don't necessarily require them.
- **Importance of Clear Language:** It is important for both the airport and the tenant to fully understand the implications of any reversion clause included in the lease agreement.

4. Legal and Contractual Protections:

- **Enforceability of Leases:** Ground leases are legally binding contracts, and both parties are obligated to adhere to the terms of the agreement.
- **Legal Recourse:** If an airport attempts to arbitrarily revoke a lease or refuse a valid renewal, the tenant may have legal recourse, such as seeking an injunction to prevent the termination or seeking damages for breach of contract.

Summary Considerations:

- **Lease Review:** It's crucial for tenants to carefully review and understand the terms of the ground lease before signing, including the renewal provisions and any reversion clauses.
- **Legal Counsel:** Seeking legal counsel before entering into a ground lease can help ensure the tenant's rights are protected.
- **Negotiation:** Tenants may be able to negotiate favorable terms during the lease negotiation process, such as longer lease terms or more favorable renewal options.
- **FAA Compliance:** It is important to ensure that the lease agreement complies with all applicable FAA regulations and grant assurances.

In summary, airport ground leases are protected by a combination of factors, including the lease agreement itself, FAA grant assurances, and the legal framework that governs contracts. Tenants can further protect their interests by carefully reviewing lease agreements, seeking legal counsel, and negotiating favorable terms