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FOR IMMEDIATE RELEASE
THURSDAY, MARCH 30, 2006
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JUDGE SAYS: AIRPORT NOISE LAWSUIT WILL STAY ALIVE

MINNEAPOLIS, MN: On March 28, 2006, Judge Stephen C. Aldrich issued an Order in favor of area homeowners, denying the Metropolitan Airports Commission's (MAC) Motion to Dismiss, setting the stage for additional discovery and a trial. The Airport Noise case, brought on behalf of homeowners living near the airport, seeks enforcement of the MAC's promise to provide full noise remediation within the DNL (day-night level) 60 dB noise contour level to homeowners living within that contour level. In the Order, the judge recognized that if an agreement exists, the homeowners are clearly the intended beneficiaries of contracts which the MAC entered into with the cities of Minneapolis and Richfield.

In recent years, the MAC has denied making any type of commitment for noise remediation to the homeowners. It has also strongly opposed all of the homeowners efforts to obtain relief. However, during preliminary discovery, the attorneys for the homeowners have found numerous documents that prove otherwise and have provided them to the Court. According to the Order:

... the face of the complaint is insufficient to support dismissal without investigation. Beyond that, the documents submitted by Plaintiffs obtained from the City of Minneapolis and the Legislative Auditor permit the inference that MAC, up to the end of 1998, wanted the public to believe they were making commitments to the public to implement a noise mitigation program with the intent to forestall challenges to the airport including construction of Runway 17/35. MAC's own December 17, 1998 press release concerning its contract with the City of Richfield supports the inference. In that press release MAC states that "MAC has committed to provide residential sound insulation out to the DNL (day-night level) 60 noise contour. The mitigation commitments go beyond those required by the current noise compatibility guidelines and policies of the FAA, making MAC a world leader in noise mitigation."

According to Bob Moilanen, an attorney for the homeowners, "This decision is a step in the right direction to assure that the MAC finally takes responsibility for what it promised. Once we prove the commitment that was made to the homeowners, the MAC will be required to make good on that commitment. We are moving forward to protect the interests of the homeowners and are very eager to continue this fight."

The Order also notes that a three-week trial is set to begin February 12, 2007, and suggests that parts of the case be tried as early as August 2006.

For more information about the case or to view a copy of the Order, please visit www.zimmreed.com.

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