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DeKalb Records on Airport Are Open For Public Inspection Judge Rules

Thursday, August 11 2005 @ 12:01 PM EST
Contributed by: [Editor](#)

by Aileen Harris

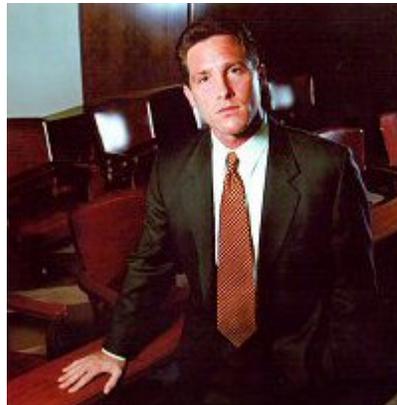
A DeKalb County Superior Court judge has ruled that DeKalb County violated the state open records act by failing to provide records DeKalb residents requested that details what type of planes fly in and out of Peachtree DeKalb Airport in north DeKalb County.



Judge Robert J. Castellani has ordered DeKalb County to disclose records resident Charles Mickey Feltus sought relating to the weight and type of planes permitted used the airport.

"This is not only a great victory for DeKalb County residents, is a great victory for every citizen who believes in open records," said Feltus' attorney D. Brandy Hornsby of the ruling. "The case is a testament to the strength of a community when they commit themselves to a cause. These individuals have been fighting for over 20 years."

Pictured: Attorney D. Brandon Hornsby



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Feltus, a former airport advisory member, believes that the undisclosed records will show planes heavier than what is allowed by county codes routinely use the airport, that the county is trying to bypass environmental laws concerning noise and pollution and the county has not collected as much as \$2 million a year in ad valorem taxation of aircraft based at PDK.

"These records will show DeKalb government and its officials have been engaging in unlawful conduct for years so it's no surprise that they don't want to produce these records," Hornsby said. "If the county is not collecting millions of dollars of ad valorem taxes then the people have a right to know." With the records, attorney Hornsby said the public can follow the money around the airport.

"Whoever is the political leader that controls the airport has a tremendous power," Hornsby maintained. "If you can dole out perk after perk that is going to translate into political strength at the time of election. No one has seen these records, we can't follow the money. Once you get the records, you can determine if power and money are improperly influencing our leaders."

DeKalb County contended in court that the terms of a Memorandum of Agreement they entered into with the Federal Aviation Administration and the City of Atlanta in December 2002 prohibit the disclosure of plane information the residents sought and that disclosure of such information could result in the loss of access to the FAA information stream through the Jackson-Hartsfield's server. The county also cited the Federal Freedom of Information Act (FOIA) as exempting certain information Feltus sought from public disclosure.

However, Judge Castellani rejected both those arguments, saying the MOA should not be used to subvert the letter and spirit of the Georgia open records act and the FOIA is purely a disclosure statute imposing no affirmative duties on an agency to withhold information sought.

"No specific federal or state law has been cited by the defendants in support of the non-disclosure directive contained in the MOA," Castellani wrote in his order. "Therefore, the court finds the MOA does not operate to prohibit disclosure of the information sought by the plaintiff."

Feltus, who moved near the airport in 1973, said he had mixed emotions about his victory.

"I am happy about the lawsuit. It shows that residents do have to right information and the county has to comply with Georgia law. They are not above it. I am also sad that citizens have to attack the county this way. We have to waste the county's money and citizens' money."

Feltus believes the FAA is trying to turn PDK into what he terms Hartsfield North, referring to Hartsfield-Jackson Atlanta International Airport, considered the world's busiest passenger airport.

"The DeKalb County Commission will not form any policy or give any direction to what the airport should be," Feltus said. "They are given into a bunch of federal bureaucrats."

"That is not true," said Kathleen Bergen Public Affairs Manager

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Poll

in the FAA's Southern Region office in Atlanta in response to Feltus' allegation that FAA is trying to expand the airport. "Decisions about airport development are made by the airport operator –in this case DeKalb County."

Bergen said as FAA is not a party to the Feltus' lawsuit, the agency will not comment on Castellani's decision. She noted that as an airport that receives federal funds, PDK must be open and available to any aircraft that can safely fly in and out of the airport.

"PDK cannot accommodate commercial aircraft," Bergen said.

The county had only a minimal response to the ruling issuing a statement saying that the county lawyers are still reviewing the case.

"While we certainly appreciate the importance of the ruling and are grateful to the court, because pending claims remain, our counsel advises that we can have no further comment at this time," said county Communications Director Burke Brennan.

Hornsby said he wants the county to immediately produce the records Feltus has requested, reimburse Feltus and other residents for overcharging for public records and pay Feltus' attorneys fees.

"If you can't get attorney fees in these issues a common citizen can't bring these types of cases," Hornsby said.

Hornsby will also seek an injunction to prevent the county from again refusing to disclose public records about the airport and will ask the court to appoint a monitor to ensure that the county is providing requested records.

The case could continue with Hornsby litigating the weight, environmental and ad valorem issues.

"Our hope is that DeKalb County will agree to resolve these without further litigation," Hornsby said. "We will be writing [the county] a letter outlining what we believe is necessary to resolve the case and not further waste taxpayers' money."

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DeKalb Records on Airport Are Open For Public Inspection Judge Rules

Authored by: [Trackboy1](#) on Thursday, August 11 2005 @ 01:57 PM EST

Why did it have to come to this?

Is there any justification for our elected officials to hide these records?

What do you think of DeKalb CEO Vernon Jones' \$235 Million Bond Referendum Recommendation?

It's just what DeKalb needs; we are way behind on our infrastructure.

No bonds! The county should include more infrastructure funding in the annual budget.

I would prefer a millage rate increase to fund necessary infrastructure projects.

I support a bond but \$235 million is too much.

Jones should have recommended an even higher bond referendum.

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Do you think DeKalb should require new developments to include "workforce housing" units?

Yes. I can't afford to buy another house in DeKalb. I'm going to have to move to Rockdale.

Maybe. The only affordable housing in DeKalb appears to be outside the Perimeter.

No way. The county shouldn't get involved in the housing market.

The county wouldn't need to do this if its zoning ordinance were designed to encourage housing for mixed incomes.

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Is doing the right thing that hard????

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