

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

\* \* \* \* \*

House Bill 2159  
Airport Hazard Zoning Legislation

\* \* \* \* \*

House Local Government Committee

Chanceford Township Municipal Building  
Muddy Creek Road  
Brogue, Pennsylvania

Wednesday, March 26, 2008 - 10:00 a.m.

--oOo--

BEFORE:

Honorable Robert Freeman, Majority Chairman  
Honorable Stan Saylor, Minority Chairman  
Honorable Bryan Cutler  
Honorable C. Adam Harris  
Honorable Susan Helm  
Honorable David Hickernell

IN ATTENDANCE:

Honorable Dan Moul  
Honorable Scott Perry

KEY REPORTERS  
keyreporters@comcast.net

1300 Garrison Drive, York, PA 17404  
(717) 764-7801 Fax (717) 764-6367

1 ALSO PRESENT:

2

John Fulton

3 Majority Executive Director

4

Amy Brinton

5 Majority Research Analyst

6

Don Grell

7 Minority Executive Director

8

David Rice, Esquire

9 Minority Counsel

10

Mark Zerbe

11 Minority Staff

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 C O N T E N T S

2	SPEAKERS	PAGE
3	Honorable Stan Saylor..... Prime Sponsor	6
4	Gerald Gromlowicz.....	9
5	PennDOT Bureau of Aviation Flight Services & Safety Division	
6	Frederic Abendschein, P.E., Chairman.....	38
7	Planning Commission, Columbia Borough	
8	Pitts Dockman, Landowner.....	54
9	John Rinehart, A.A.E., Board Member..... Aviation Council of PA	62
10	Union Township, Washington County	
11	Dennis Makel, Esquire, Solicitor.....	70
12	Steven Parish, Chairman..... Board of Supervisors	74
13	Chanceford Aviation, Inc. Bruce Eveler.....	98
14	Jeffrey Heindel.....	105
15	Holly Fishel, Director..... Policy & Research	120
16	PA State Assoc. of Township Supervisors	
17	Timothy Bupp, Esquire, Solicitor..... Chanceford Township, York County	132
18		
19		
20	(Written testimony submitted by Aircraft Owners and Pilots Association)	
21		
22		
23		
24		
25		

1 SUPPORT INDEX

2

3

4 REQUEST FOR PRODUCTION OF DOCUMENTS

5

6

7 Page Line Page Line Page Line

8

9 (None)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1           CHAIRMAN FREEMAN: Good morning,  
2 everyone. My name is Bob Freeman, Chairman of  
3 the Local Government Committee. Next to me is  
4 Representative Stan Saylor, Republican Chairman  
5 of this committee. We are pleased to be here  
6 today to discuss the issue of airport hazard  
7 zoning legislation. The focus of this hearing  
8 is House Bill 2159.

9           Before we get into our agenda for  
10 today, I'd like all the members who are  
11 present--Most of them are with the Local  
12 Government Committee. There are one or two who  
13 are not with the committee, but represent  
14 neighboring districts--I'd like them to  
15 introduce themselves and to state what district  
16 and county they're from. We'll start down  
17 here.

18           REPRESENTATIVE HICKERNELL: Good  
19 morning. Dave Hickernell, 98th District,  
20 Lancaster and Dauphin counties.

21           REPRESENTATIVE HELM: Sue Helm, 104th  
22 District of Dauphin County.

23           REPRESENTATIVE SAYLOR: Stan Saylor,  
24 94th District, and Republican Chairman of the  
25 Local Government Committee.

1           CHAIRMAN FREEMAN:  Again,  
2 Representative Bob Freeman, Democratic Chairman  
3 of the House Local Government Committee.  I  
4 hold the 136th District, which actually is  
5 Northampton County.

6           REPRESENTATIVE HARRIS:  Adam Harris,  
7 I represent the 82nd District, which is  
8 Juniata, Mifflin and Snyder counties.

9           REPRESENTATIVE CUTLER:  Good morning.  
10 Bryan Cutler, 100th District, southern  
11 Lancaster County, just across the river.

12           REPRESENTATIVE MOUL:  Good morning.  
13 Dan Moul from Adams and Franklin County, 91st  
14 District.

15           CHAIRMAN FREEMAN:  I thank the  
16 members for their attendance today.  And we  
17 want to give a special thanks to the  
18 municipality of Chanceford for allowing us to  
19 use their facilities here.

20           We will first turn to Representative  
21 Saylor to allow him to provide a welcome to the  
22 committee to those who are present, and to also  
23 give us an overview of his legislature.  
24 Representative Saylor.

25           REPRESENTATIVE SAYLOR:  Thank you,

1 Bob.

2           The legislation that we have  
3 introduced in this bill is a bill that, due to  
4 some problems that we've been seeing with  
5 changes I felt took place at the federal  
6 government which combined small, I'll call them  
7 hobby airports with those such as York,  
8 Thomasville and other Lancaster airports that  
9 have regular charter flights, things going in  
10 and out of there, businesses use them on a  
11 regular basis, was the effect that we were  
12 seeing take place with property values, and  
13 people's property rights in particular, and how  
14 that was going to affect municipal government,  
15 whether it's boroughs or townships in this  
16 state, and the liability that it placed on the  
17 citizens and taxpayers of those areas.

18           We're really concerned that some of  
19 these townships and municipalities will be  
20 bankrupted by lawsuits that will follow these  
21 new requirements, hazardous zoning around,  
22 again, I call them hobby airports, which are  
23 usually grass strip-type airports that  
24 originally were intended basically for usually  
25 the property owner or two or three people to

1 get together and utilize these.

2           So this legislation basically has --  
3 designed to try and protect local taxpayers and  
4 voters' property rights, as well as protect  
5 townships and municipalities from being  
6 bankrupted by lawsuits when they do this zoning  
7 that's going to be required by the FFA and  
8 state Department of Aviation. So, basically,  
9 that's kind of the reason for it. It's not  
10 about airports. I think it's great. I don't  
11 own an airport or I don't own a airplane. I  
12 don't fly that much other than commercial  
13 flights out of HIA, or whatever.

14           But it does come down to the fact  
15 that there are some serious things that need to  
16 be discussed and resolved in the issue of these  
17 airports. My feeling was, the federal  
18 government made some changes several years ago.  
19 And when this airport and other airports were  
20 created, it was never intended to allow this to  
21 get this far as to affecting surrounding  
22 property values. So, we're trying to deal with  
23 that issue to protect the local taxpayers and  
24 local townships from being bankrupted by future  
25 lawsuits.



1           With that, I'll turn it back to the  
2 chairman.

3           CHAIRMAN FREEMAN: Thank you,  
4 Chairman Saylor. I do want to recognize the  
5 presence of Representative Scott Perry, he's  
6 joined us as well.

7           The first testifier this morning is  
8 Gerald Gromlowicz from Pennsylvania Department  
9 of Transportation, in particularly their  
10 Aviation Bureau. Mr. Gromlowicz, welcome. You  
11 may begin your testimony at any time.

12           MR. GROMLOWICZ: I'd first like to  
13 thank the committee for allowing PennDOT to  
14 testify on this important matter. Brian  
15 Gearhart, who is our director at this time, is  
16 not going to be able to be here today due to an  
17 illness, so I've been asked to read a prepared  
18 statement that Brian prepared for him (sic).

19           And since this proposed change  
20 concerns legal issues within the aviation law,  
21 I will not be taking questions, and request  
22 that all questions be directed to PennDOT's  
23 Office of Chief Counsel, if that's appropriate.

24           CHAIRMAN FREEMAN: You mean in terms  
25 of legal questions?

1           MR. GROMLOWICZ: Yes, concerning the  
2 change in the law.

3           CHAIRMAN FREEMAN: Sure.

4           MR. GROMLOWICZ: I'd just like to  
5 give you a brief overview of the number of  
6 public-use airports, commercial service and  
7 general aviation in Pennsylvania is  
8 137 airports. The number of privately-owned  
9 use airports and for private use only is  
10 357. The total economic impact of  
11 Pennsylvania's aviation is estimated at over  
12 \$12 billion, and those are from 2005.

13           I'd like now to present my statement  
14 that I've been given to read. Airport  
15 hazardous zoning is necessary for all  
16 public-use airports and has been created to  
17 provided a safe transportation system. Safety  
18 is of paramount concern when considering the  
19 operation of an airport. It relates not only  
20 to pilots and aircraft, but also to persons and  
21 property in each airport's environs. In 1984,  
22 the Pennsylvania legislature passed Act 164,  
23 Pennsylvania laws relating to aviation, of  
24 which Chapter 59, Subchapter B is the Airport  
25 Zoning Act.

1           As its general rule, it states: In  
2 order to prevent the creation or establishment  
3 of airport hazards, every municipality having  
4 an airport hazard area within its territorial  
5 limits shall adopt, administer and enforce  
6 under the police power and in the manner and  
7 upon the conditions prescribed in this  
8 subchapter and in applicable zoning laws,  
9 unless clearly inconsistent with this  
10 subchapter, airport zoning regulations for such  
11 airport hazard area.

12           Airport hazard areas as described in  
13 Act 164 are based on Federal Aviation  
14 Regulations (FAR) Part 77. Part 77 provides a  
15 mechanism, whereby, the FFA evaluates objects  
16 to determine if they are hazards to air  
17 navigation. Pennsylvania municipalities  
18 falling within the airport's Part 77 surfaces  
19 are defined as being in the airport hazard  
20 area. Therefore, these municipalities are  
21 subject to Act 164 compliance to regulate the  
22 height of objects around airports and in  
23 accordance with FAR Part 77.

24           The state requirement within Chapter  
25 57 of the aviation law requires Department

1 approval before erecting structures in defined  
2 areas around a public airport. It is further  
3 noted that at the federal level notice is  
4 required by 14 Code of Federal Regulations,  
5 Part 77 pursuant to 49 U.S.C., Section 44718.  
6 Persons who knowingly and willingly violate  
7 notice of state and federal law are subject to  
8 civil penalties.

9           Public airports are critical to  
10 Pennsylvania's air transportation  
11 infrastructure. Airport zoning was not  
12 established as a requirement -- I'm sorry.  
13 Airport zoning was established as a requirement  
14 of Pennsylvania law for the overall good of the  
15 public. Aircraft operators and the flying  
16 public expect Pennsylvania to provide for a  
17 consistent standard and level of safety at  
18 public-use airports. Fortunately, safety  
19 standards are not dependent on whether a public  
20 airport is privately or publicly owned.

21           In the Commonwealth, the  
22 responsibility and authority for the  
23 development and enforcement of all types of  
24 zoning ordinances rest with local government.  
25 This includes Act 164, Airport Zoning Act.

1           Amending this law to narrow the  
2 requirement to only protect publicly-owned  
3 airports would jeopardize the ability of an  
4 airport to comply with federal safety  
5 standards, FAR Part 77. These privately-owned,  
6 public-use airports are vital to our air  
7 transportation system and contribute to our  
8 ability to maintain an effective network of  
9 interstate commerce.

10           Beyond federal regulations, state law  
11 and general public safety, protecting  
12 public-use airports within the Commonwealth,  
13 regardless of who owns them, makes sense from  
14 an economic standpoint. Many businesses make  
15 their decision to locate in a particular area  
16 on the accessibility to a public airport.  
17 Public airports provide dollars to the local  
18 economy through jobs either directly or  
19 indirectly. Pennsylvania public airport  
20 visitors also contribute to the economic health  
21 of an area through the purchase of goods and  
22 services.

23           As a result, the Department of  
24 Transportation would be opposed to the proposed  
25 bill as it would have a negative impact on the

1 safety of the air transportation system in  
2 Pennsylvania. As it is currently drafted, this  
3 bill would only allow zoning of one  
4 privately-owned airport, University Park  
5 located in Centre County. All other  
6 privately-owned, public-use airports would not  
7 be protected by the Airport Hazard Zoning  
8 Act 164.

9           Airport zoning was established for  
10 the overall public good and is based on the  
11 federal standards for public-use airports. The  
12 Federal Aviation Administration does not  
13 establish different safety standards for  
14 public-use airports based on their ownership,  
15 and the Department believes that the  
16 Commonwealth should mirror this standard.

17           In fact, the Federal Aviation  
18 Administration requires airports that receive  
19 funding to protect their approach surfaces  
20 through grant assurances regardless of their  
21 ownership. By eliminating privately-owned,  
22 public-use airports the ability to protect  
23 their approaches could very well jeopardize the  
24 federal funding received to improve those  
25 facilities.

1           This bill could very well cause the  
2 gradual closure of a number of those  
3 privately-owned, public-use airports.  
4 Significant federal and state investment would  
5 be lost, as would the ability for the  
6 Commonwealth to regulate the safety of its  
7 airports. These investments are a prime  
8 example of the successful public/private  
9 partnerships. It should be noted that there  
10 are 62 privately-owned, public-use airports in  
11 the state, which is nearly half of all of the  
12 public airports in the Commonwealth.

13           While government funding is provided  
14 to improve the public-use infrastructure of  
15 private airports, the cost for the operation  
16 and other noneligible projects are assumed by  
17 the owner. Again, these airports are critical  
18 to Pennsylvania's air transportation  
19 infrastructure by serving the various roles  
20 needed for a well-rounded air transportation  
21 system.

22           Finally, I would like to note that  
23 Section 5501 of the Aviation Code, 74 PA  
24 states: Ownership of the space over and above  
25 the lands and waters of this Commonwealth is

1 declared to be vested in the owner of the  
2 surface beneath, but the ownership extends only  
3 so far as is necessary to the enjoyment of the  
4 use of the surface without interference, and is  
5 subject to the right of passage or flight of  
6 aircraft.

7           Again, I would like to stress that  
8 airport hazard zoning is a necessary component  
9 of a safe transportation system that includes  
10 all public-use airports. Aircraft operators  
11 expect Pennsylvania to provide a consistent  
12 standard and level of safety for all those  
13 airports that are open to the public. Airplane  
14 zoning is critical in maintaining  
15 Pennsylvania's low accident rate attributable  
16 to objects affecting navigable airspace.

17           One thing that's not mentioned in  
18 here, we would also probably have an issue with  
19 the monetary penalties that airports may have  
20 to pay if there is a lawsuit by a landowner  
21 against the municipality.

22           CHAIRMAN FREEMAN: Did you bring  
23 copies of your testimony?

24           MR. GROMLOWICZ: Yes, you may have  
25 this copy.



1           CHAIRMAN FREEMAN: Thank you for your  
2 testimony. With that, I'll open it for  
3 questions from the committee. Questions from  
4 members? Chairman Saylor.

5           REPRESENTATIVE SAYLOR: First of all,  
6 with the interpretation of PennDOT of this  
7 legislation, first of all, I don't think you're  
8 accurate in your statement in stating that this  
9 affects all of the privately-owned airports.  
10 It doesn't. It does not affect the York  
11 Airport at all. This legislation has nothing  
12 to do with York or Lancaster airports or  
13 similar airports throughout this state.

14           For PennDOT to read it that way is a  
15 real misconception of the language of this bill  
16 that's been introduced. We've gone over this  
17 with a lot of different people, legal counsel  
18 and everything else. Your interpretation of it  
19 is nowhere near the interpretation that it  
20 should be.

21           So I think it's a real misconception  
22 for PennDOT to come here, particularly send  
23 somebody here, who in my personal opinion is --  
24 You know, the person who came up with your  
25 opinion didn't come today. I'm not blaming

1 you, specifically.

2           But if you're going to argue with  
3 what the intent of this legislation and how it  
4 affects us, then somebody should have been here  
5 from your legal department to explain to us how  
6 it does affect us. I don't want to argue with  
7 you, but I do have a concern that the word is  
8 being spread, a real misconception and an  
9 untruth, in how this legislation will affect  
10 airports in Pennsylvania, because the intent of  
11 this legislation is not to close airports.

12           MR. GROMLOWICZ: I understand that.  
13 I think the interpretation was when you say  
14 commercial service, commercial service with, I  
15 think two scheduled flights per week, it would  
16 affect, because there are no scheduled flights  
17 that we're aware of in any privately-own,  
18 public-use facility. The only scheduled  
19 flights that we're aware of are at scheduled  
20 service, which are also considered commercial  
21 service-type airports.

22           REPRESENTATIVE SAYLOR: What we're  
23 talking about in the commercial side of things  
24 is chartered flights that may go in and out of  
25 airports that businesses may use, so on and so

1 forth; not the flights that you would fly to  
2 Florida from an airport or anything.

3 MR. GROMLOWICZ: Right.

4 REPRESENTATIVE SAYLOR: I'm not  
5 talking about those kind of commercial flights.

6 MR. GROMLOWICZ: I think we made  
7 comment, a written comment to the committee on  
8 our disagreements several weeks ago. That was  
9 one of the sticking points. That's why  
10 University Park in our estimation would be the  
11 only airport, because that is privately owned  
12 by Penn State University. It does have  
13 scheduled service. It does have more than two  
14 flights a week that carries passengers. But  
15 chartered flights are not scheduled flights,  
16 and that's where we probably disagree.

17 REPRESENTATIVE SAYLOR: Okay, point  
18 taken.

19 REPRESENTATIVE PERRY: Based on that,  
20 can I ask a question?

21 CHAIRMAN FREEMAN: Sure.  
22 Representative Perry.

23 REPRESENTATIVE PERRY: Thank you, Mr.  
24 Chairman.

25 So I just want to clarify and codify

1 this, that you're saying that this would apply  
2 to every airfield or airport in Pennsylvania,  
3 except the University Park solely, regardless  
4 of the good intentions of the folks that worked  
5 on this, but the way that PennDOT would  
6 interpret it, based on scheduled flights?

7           MR. GROMLOWICZ: Of two flights per  
8 week.

9           REPRESENTATIVE PERRY: That it would  
10 include every single private airport in  
11 Pennsylvania except University Park.

12           MR. GROMLOWICZ: Yes, that's how  
13 we've interpreted it.

14           CHAIRMAN FREEMAN: Representative  
15 Hickernell.

16           REPRESENTATIVE HICKERNELL: Thank  
17 you, Mr. Chairman.

18           I understand, and it's certainly  
19 PennDOT's right to oppose the bill. I guess I  
20 would like to take it to the next step and ask,  
21 you know, is PennDOT willing to work with  
22 Representative Saylor and co-sponsors of the  
23 bill like myself to try to achieve the goal  
24 that Representative Saylor stated, you know,  
25 without infringing on PennDOT's concerns and

1 things like that? I mean, is there common  
2 ground here that we can sit down and try to  
3 reach some compromise?

4 MR. GROMLOWICZ: There may be. I  
5 don't want to say yes or no. It's probably  
6 someone higher in our echelon than myself to  
7 say whether we would or wouldn't. But we have  
8 been willing and we have worked with  
9 municipalities to modify the zoning and try to  
10 tailor it to the type of airport that is --  
11 would have an impact on any municipality.

12 You know, Part 77 is a model zoning  
13 ordinance that the FAA came up with, and it  
14 doesn't say that you have to have all of those  
15 particular areas protected, and it depends on  
16 the type of airport. We wouldn't want to see a  
17 modified FAR Part 77 at scheduled service  
18 airports because those airports need all of the  
19 areas that are depicted in this model zoning  
20 ordinance. A smaller airport would not need  
21 all of those areas.

22 REPRESENTATIVE HICKERNELL: Follow-up  
23 question. How many municipalities currently  
24 have airports -- I think you mentioned the  
25 number 60. How many of those municipalities

1 currently have --

2 MR. GROMLOWICZ: There's over  
3 800 municipalities in Pennsylvania that are  
4 impacted by a public airport.

5 REPRESENTATIVE HICKERNELL: And how  
6 many of those have zoning right now that you  
7 would say is appropriate?

8 MR. GROMLOWICZ: We had a study done  
9 several years ago, I think 2005. It was  
10 probably about 20 percent have adopted airport  
11 hazard zoning because there was no enforcement  
12 by the Department or the airport.

13 REPRESENTATIVE HICKERNELL: And in  
14 those other 80 percent that don't have, you  
15 would say they're unsafe areas?

16 MR. GROMLOWICZ: Well, we do an  
17 annual inspection at every public-use airport,  
18 and we try to the best of our ability to  
19 control obstructions around those airports  
20 through our grant program with aerial  
21 easements, land acquisition, tree removal,  
22 things of that sort. But you don't always have  
23 a willing adjacent landowner to those options.

24 CHAIRMAN FREEMAN: Just a couple  
25 quick questions. I don't pretend to be as

1 well-versed in this issue as my colleague,  
2 Chairman Saylor. But it strikes me that it's  
3 almost a one-size-fits-all approach to a  
4 problem. I think he's recognizing that we have  
5 smaller airports that might not have to have  
6 the same sort of stringent requirements that  
7 this airport hazard zoning requires.

8           MR. GROMLOWICZ: That's correct.  
9 That's what I just explained. We would, you  
10 know, accept a tailored approach. We're not  
11 going to dictate what they have to adopt, but  
12 we want certain areas protected around, and  
13 those are the critical phases of flight,  
14 departure and arrival, and we're talking about  
15 the approach path into the airport and then the  
16 areas adjacent, immediately adjacent to the  
17 airport.

18           CHAIRMAN FREEMAN: Do you make a  
19 difference or delineate between certain types  
20 of aircraft that use those kind of airports?  
21 There's a big difference between a jumbo jet  
22 and a small aircraft?

23           MR. GROMLOWICZ: Well, of course,  
24 yes; in those areas in large, depending on  
25 whether that airport is open for night

1 operations, whether they have instrument  
2 approach for various weather conditions, things  
3 of that sort. I mean, if you look at  
4 Pittsburgh or Philadelphia, there are huge  
5 areas that are taken in. Whereas, you take a  
6 small general aviation airport, it only goes  
7 out 5,000 feet, which is less than a mile off  
8 of each end.

9           CHAIRMAN FREEMAN: And you mentioned  
10 that the Department is willing to work with  
11 municipalities in terms of --

12           MR. GROMLOWICZ: Yes, we've always  
13 been willing to work to get some type of  
14 protection for the airport.

15           CHAIRMAN FREEMAN: Does the  
16 Department provide a series of guidelines as to  
17 what needs to be included in --

18           MR. GROMLOWICZ: We have compatible  
19 land-use guidelines which is a whole other  
20 subject.

21           CHAIRMAN FREEMAN: Right.

22           MR. GROMLOWICZ: But as far as  
23 protected airspace from hazards being created,  
24 as I said, we will work with airports. We can  
25 limit the distances that they go out based on



1 that type of airport, but airports change also.

2           You may have an airport that only  
3 has daytime operations. Well, a pilot -- In  
4 visual meteorological conditions, a pilot is  
5 going to be able to see trees and things. But  
6 if that airport then changes to -- installs  
7 airport lighting for nighttime operations,  
8 they're not going to be able to see those. So,  
9 we would want an ordinance that would grow with  
10 the airport, so to speak.

11           CHAIRMAN FREEMAN: And could you list  
12 just a couple of examples of hazards that  
13 you're concerned with in terms of an airport  
14 approach?

15           MR. GROMLOWICZ: Any type of  
16 structures in close proximity to an airport  
17 could be a potential hazard.

18           CHAIRMAN FREEMAN: Above a certain  
19 story or --

20           MR. GROMLOWICZ: Right. When we  
21 analyze objects based on our state regulations,  
22 we're limited to penetration of any of the  
23 services in the Part 77 area. The FAA is the  
24 only one that can declare something to be a  
25 hazard. All hazards are -- Or all objects are

1 considered hazards until they're studied.

2           The FAA has the ability to do that.

3 They are the experts, so to speak, on  
4 determining whether an object is a hazard or is  
5 it just there. Is it just existing, but  
6 penetrates the FAA Part 77 service does not  
7 mean it's a hazard automatically. It does  
8 initially because they don't know until they  
9 look at it. Then they're going to look at the  
10 operation of that airport, whether they have  
11 instrument approach; whether they have  
12 lighting, things of that sort. So there are a  
13 number of factors that go into that.

14           CHAIRMAN FREEMAN: Thank you.  
15 Chairman Saylor.

16           REPRESENTATIVE SAYLOR: One other  
17 question I guess I have for you is, when you  
18 look at these airports, it's important to  
19 note -- I'm asking you, is it important to note  
20 how long the runway, for instance, is and how  
21 wide it is as to what kind of zoning you would  
22 require around that property? Does that have  
23 an effect to a degree?

24           MR. GROMLOWICZ: Well, the minimum  
25 length for a public-use airport in Pennsylvania

1 is 2,200 feet. And the runway, if it's a paved  
2 runway, we require 50-feet wide of pavement.

3           If it's a turf runway, we're looking  
4 at 100 feet wide of turf. There's a protected  
5 area on the sides of the runway. That area is  
6 250 feet wide with this hundred-foot wide run  
7 lane in the center of it. That additional area  
8 on the side is in case there's a crosswind.  
9 You have student pilots that may have to do a  
10 go-around. We don't want him impacting trees  
11 or whatever may be along the side of the  
12 runway. We want him to have an escape route.

13           Other than that, that would be the  
14 bare minimum for a general aviation, probably  
15 single-engine-type operation at a general  
16 aviation airport.

17           REPRESENTATIVE SAYLOR: I guess the  
18 comment that I have is, and Bob talked about it  
19 earlier, it expresses my concern over the one  
20 size fits all to a certain degree. I still  
21 think -- Well, I know you are -- I don't  
22 disagree you haven't tried to work with  
23 different municipalities around here and  
24 throughout the state.

25           But again, I think that a lot of

1 these airports were created, and if the  
2 townships and municipalities and boroughs had  
3 known this was going to happen, those airports  
4 would never have been created because of the  
5 effect on property values, and more  
6 importantly, on just overall what people can  
7 zone around these airports.

8           When Baublitz was put in, nobody ever  
9 thought it was going to lead to this. There  
10 was no idea that this township ever thought it  
11 was going to come to what it is today. I  
12 surely have no interest in closing Baublitz or  
13 any other airport in the state. I want to make  
14 that clear. But I do think that we do have to  
15 take into consideration --

16           And particularly in York County, we  
17 just had a recent election over property  
18 rights. I'm hearing from voters they're tired  
19 of government coming in impacting property  
20 rights and property values of neighboring  
21 properties, and a number of things like that.

22           So, it does come down to the fact  
23 that this legislation's intent is to try and  
24 lessen that burden. But more importantly, I  
25 think the concern that I have is -- Any comment

1 you have, if you have any past record of it or  
2 anything else in other states I would be  
3 welcome to listen as to lawsuits that are filed  
4 by property owners surrounding airports and  
5 how -- you know, if you're zoned commercial  
6 right next to the airport, this airport, any  
7 other airport, how it affects what you can do.

8           If you no longer can build  
9 commercial buildings or houses on it, the  
10 lawsuits that would come and pass on to any  
11 number of townships and municipalities in the  
12 state, what -- You know, who's going to pay  
13 that bill? That's the concern.

14           When you look at Chanceford Township,  
15 and I think a lot of townships that have  
16 these -- In York County I have two airports in  
17 my district, and a total of six in York County,  
18 counting York Airport. And it's that whole  
19 impact that could end up happening to townships  
20 where they're bankrupted by lawsuits asking you  
21 to be reimbursed for either commercial or  
22 residential development that could be affected  
23 by this new zoning.

24           Any comments on that and what you've  
25 seen?

1 MR. GROMLOWICZ: You're not telling  
2 me anything that we haven't heard before.

3 REPRESENTATIVE SAYLOR: Right.

4 MR. GROMLOWICZ: Normally, most of  
5 your small private, and even some of the now  
6 publicly-owned airports started out as private  
7 facilities. At some point they became public  
8 facilities. The law change in 1984 brought all  
9 of these other areas in, such as Part 77, not  
10 that we weren't enforcing a safety standard  
11 prior to that, but this more or less formalized  
12 it, and we accepted the FAA model.

13 And again, we're making a significant  
14 investment in these airports either through  
15 state grants or part of the federal block grant  
16 program, I think one of three states that  
17 received money from the federal government is  
18 allocated to public airports.

19 The problem is, we have an old  
20 infrastructure in Pennsylvania. We have hills,  
21 we have trees. We're not in Arizona where it's  
22 nice and flat and we wouldn't have these  
23 problems. What we're trying to do is preserve  
24 what is here now, because there's nowhere in  
25 this state where anyone is going to allow a new

1 public-use airport to be build. So, we're  
2 trying to save the infrastructure that we have  
3 now, improve that infrastructure. And again,  
4 we're willing to assist through grants to  
5 acquire land.

6           And as I said before, there are some  
7 things such as commercial businesses and things  
8 that are compatible with public airports.  
9 Housing areas are another problem because the  
10 airport may have been there for 50 years and a  
11 developer comes in, and that's where the  
12 majority of our complaints come from is about  
13 the noise levels. Then it starts to where the  
14 airport is under pressure to close, limit  
15 operations, no flying at night, things of that  
16 sort.

17           REPRESENTATIVE SAYLOR: The  
18 Department overall has in the past with another  
19 airport here in my district helped with -- We  
20 had problems with people buzzing houses and  
21 buzzing cattle, so on and so forth. It's been  
22 resolved and we haven't had any problems since.

23           But I guess the last question I have  
24 for you is, if you have the answer, how does  
25 Pennsylvania compare in airports, the number of

1 airports versus other states? Any idea?

2           MR. GROMLOWICZ: For our size we have  
3 a pretty good track record for aviation within  
4 Pennsylvania. But I would say that we probably  
5 have a lot more airports--But again, we're a  
6 larger state and where we're located in the  
7 northeast--than Arkansas, or somewhere to that  
8 effect.

9           REPRESENTATIVE SAYLOR: How does it  
10 compare to New York?

11           MR. GROMLOWICZ: I can't tell you how  
12 many airports they have in New York. And  
13 again, that's up to each individual state as  
14 far as licensing. But I know that every public  
15 airport that has registered for airspace with  
16 the FAA is considered a public airport. They  
17 don't make a distinction between a Baublitz  
18 airport or Philadelphia International. The  
19 protections are there because you have the  
20 public utilizing that airport.

21           You know, you could probably apply  
22 that to road standards. I mean, a municipality  
23 has to have township roads. Those roads have  
24 to be maintained in a certain manner. And if  
25 they're not, then I'm sure the state would



1 probably close that road or have them close  
2 that road because it's unsafe. And we're  
3 looking at the same situation with airports.

4 REPRESENTATIVE SAYLOR: Okay.

5 CHAIRMAN FREEMAN: Mr. Gromlowicz,  
6 thank you for your testimony.

7 REPRESENTATIVE PERRY: I have one  
8 follow-up question. The discussion just --

9 CHAIRMAN FREEMAN: Sure.

10 REPRESENTATIVE PERRY: I think Stan  
11 alluded to the fact, at least in my mind, that  
12 the property value around airports may be  
13 diminished because of the operation of the  
14 airport, whether the airport is new or whether  
15 it's existing, and because of the operation. I  
16 just wondered if there's any empirical data to  
17 support whether the values go up or down?

18 Quite honestly, whether it's an  
19 airport or a racetrack or a wastewater  
20 treatment plant, it seems to me that, if I can  
21 use the term encroachment, development whether  
22 it's by private individuals or by a developer  
23 who develops ground around things like that,  
24 continues unabated regardless of whether, like  
25 I said, it's an airport or something else. I'm

1 just wondering if PennDOT or anybody else that  
2 you know of keeps any data regarding property  
3 values?

4           MR. GROMLOWICZ: I don't think we  
5 have any data like that, but part of our grant  
6 program is to focus on airports for economic  
7 development. If we have businesses that want  
8 to come into Pennsylvania and locate close to  
9 an airport to carry out their business,  
10 usually --

11           84 Lumber, for instance,  
12 Connellsville Airport, we're putting a lot of  
13 money into the Connellsville Airport because  
14 Joe Hardy's aircraft fly out of that airport.  
15 We don't want businesses to leave Pennsylvania.  
16 We want to keep them here.

17           In today's modern world they have to  
18 do business, and rather than -- With the  
19 current airline situation, they don't have time  
20 to be waiting at an airport for six hours or  
21 eight hours on a flight, and they do have their  
22 own corporate aircraft.

23           We do encourage that commercial  
24 development is done around the airports, rather  
25 than --

1 REPRESENTATIVE PERRY: Residential.

2 MR. GROMLOWICZ: -- residential. So  
3 we encourage those types of things. But again,  
4 the final analysis is up to the community. We  
5 don't interfere in, you know, expanding the  
6 airport where that airport is not wanted in  
7 that community. They have to have community  
8 support.

9 REPRESENTATIVE PERRY: So, as far as  
10 you know, there's nothing to prove whether  
11 property value increases or decreases --

12 MR. GROMLOWICZ: Not that I'm aware  
13 of.

14 REPRESENTATIVE PERRY: --  
15 regarding --

16 MR. GROMLOWICZ: There probably have  
17 been some studies.

18 REPRESENTATIVE PERRY: -- placement  
19 of the airport, number 1. Just as a comment,  
20 as a follow-up, I know that part of the  
21 district I represent includes the airport in  
22 Carlisle, and businesses located close by are  
23 hoping that somehow they can expand traffic at  
24 Carlisle and the size of Carlisle because they  
25 want to land bigger planes there for business

1 purposes, and in that regard.

2           So, I just want to clarify, at this  
3 point, unless somebody brings something to the  
4 table, there's nothing that I know of, unless  
5 you have some --

6           REPRESENTATIVE SAYLOR: We're not  
7 really arguing over whether the property values  
8 go down or up depending on the airport. I  
9 don't know if there's any statistics. I agree,  
10 there is no statistics I think.

11           MR. GROMLOWICZ: Not that I'm aware  
12 of. There may be some.

13           REPRESENTATIVE SAYLOR: I'm not even  
14 sure it affects it at all. Our concern is not  
15 over property values once something is built  
16 there, or whatever. I think Capitol; we see  
17 development taking place at Harrisburg  
18 International, and things like that.

19           What our argument is over the  
20 property value, if you're zoned residential or  
21 commercial near this airport--We are using this  
22 as an example--and you can't build there now  
23 because you're too close to the airport, and  
24 how that affects the rights of the builders.

25           In other words, the zoning is

1 already for residential next to an airport. If  
2 you now cannot build houses on it because of  
3 this new regulation of hazard zoning, the  
4 property value -- The township is liable for  
5 that property owner. The question is, can that  
6 property owner sue and will they sue, and who  
7 is responsible for that damage if they no  
8 longer can build there.

9           REPRESENTATIVE PERRY: I think that's  
10 probably a reasonable question at the same  
11 time. But I'd also say from my experience,  
12 whether that's a truism or whether that's just  
13 a hyperbola, it appears to me they build right  
14 up to the line, right up to the fence line with  
15 either commercial, residential, cell towers,  
16 just about anything.

17           Having little experience with the FAA  
18 encroachment zone, and so forth, the only  
19 obligation I ever saw for putting up a cell  
20 tower or anything like that in the approach  
21 path was to notify the FAA. They didn't even  
22 say whether you could do it or not. You just  
23 had to notify them, chart it.

24           MR. GROMLOWICZ: I always use the  
25 analogy that if you had a restaurant in this

1 township and someone owned the land next to it,  
2 you wouldn't allow them to put a pig farm in  
3 there. It's the same type of analogy. You  
4 have zoning for certain things. We don't see  
5 this as any different.

6           That's why we're concerned about the  
7 penalties that would be assessed against an  
8 airport. We're not aware of any other zoning  
9 that assesses a penalty for someone who has an  
10 establishment or an airport where they are  
11 actually penalized because they exist in this  
12 agreement we have with this.

13           CHAIRMAN FREEMAN: Thank you very  
14 much for your testimony. We are running a  
15 little behind, so I'd like to move on to our  
16 next testifier. I'd like to call up to the  
17 table Fred Abendschein, Chairman of the  
18 Planning Commission of Columbia Borough in  
19 Lancaster County.

20           MR. ABENDSCHEIN: Thank you very  
21 much. I'm going to set up a little thing here.  
22 I'm going to talk off the cuff. So pardon me  
23 for having this to the back of you. If anybody  
24 wants to see what I have here, I'll have it  
25 available over the break.

1           There's a lot of small airports, as  
2 you heard the gentleman from PennDOT testify,  
3 all over the Commonwealth. In Columbia we have  
4 our own little one called McGinness Airport. A  
5 gentleman by the name of George McGinness  
6 started that back in the late 1940's, and he is  
7 still the owner and operator of that airport.

8           When Columbia was doing its 1995  
9 comprehensive plan, he asked that it be called  
10 out in there that Columbia adopt an airport  
11 hazard area, and that was put in the plan, and  
12 we on the planning commission suggested in our  
13 2000 review and 2006 review that the borough do  
14 that.

15           Now, we're looking at it from a  
16 theoretical standpoint, not necessarily from  
17 the standpoint of the taxpayer. The borough  
18 council selected not to adopt one primarily  
19 because of all the costs involved in that.

20           Now, what I'm going to talk about as  
21 I get into this is from a viewpoint of an  
22 engineer and also sort of an end-user of any  
23 airport hazard area and from a planning  
24 commission standpoint.

25           If we would adopt the model

1 ordinance, and that's what we've looked at,  
2 this would not only include virtually all of  
3 Columbia Borough, but it would extend out into  
4 West Hempfield Township and also into Manor  
5 Township. In terms of legislative districts it  
6 includes the 98th and 41st House district, and  
7 the 36th and the 13th Senate districts also.  
8 So you can see it encompasses an awful lot.

9           Because of it going over across  
10 municipal boundaries into West Hempfield and  
11 Manor Township, if they would have to adopt it,  
12 one of the many engineering-type questions that  
13 would obviously have to be resolved legally is,  
14 how do you interlock these zones. You don't  
15 want discontinuous zones on that. So that  
16 means our solicitor has to work with their  
17 solicitor, and you can see where the costs just  
18 starts going up tremendously.

19           From an engineering standpoint, an  
20 awful lot of questions on this. Maybe they can  
21 be resolved. But the last place we would want  
22 to resolve them is at the planning commission  
23 level when a developer comes in, pushes the  
24 limits, wants to build the building as high as  
25 he possibly can. We're not sure of it, he's



1 not sure of it, the borough engineer is not  
2 sure of it. We've got to stop and go back to  
3 the solicitor. It's not fair to the developer,  
4 not fair to the citizens.

5           So, a lot of these questions, maybe  
6 they can be answered, more that could be  
7 answered up front, the better it would, if we  
8 have to go this route. We prefer not to  
9 because we have what we feel is a very good  
10 work around this. I'll describe them on this.

11           But, for example, on here you can  
12 see -- This is sort of a very crude thing, but  
13 here's your runway and here you have a  
14 horizontal zone area over the runway and a  
15 conical zone that goes out there. Depending on  
16 the lay of the land, you could actually build a  
17 building taller closer to the airport than you  
18 could far away, just depending on what the  
19 landscape is.

20           But some of the questions that arise,  
21 and here's where we really get into the  
22 engineering standpoint of it is, for example,  
23 where on earth does -- The model ordinance  
24 depends on the definition of where the runway  
25 ends. When you look at the photograph in my

1 testimony, it's not clear in McGinness Airport  
2 turf view where on earth that ends.

3           Well, when you -- That determines  
4 what you have as far as these conical zones  
5 coming out in here. If I was a developer, the  
6 natural thing I would do is, I would push for  
7 the highest definition I could on that thing.  
8 As an engineer, I wouldn't go that high. I  
9 think a more practical one is down  
10 here (pointing). Just in a two-dimensional  
11 thing, I can come up with ten different  
12 definitions of how high you can build that  
13 building. Make it three dimensional, and I can  
14 come up with 30 definitions. Which one is the  
15 right one? Don't know.

16           And, you know, who determines how  
17 high the runway is? I mean, that would have to  
18 be agreed on. Who determines how high the  
19 parcel is? Do we depend on what the developer  
20 does, or do we have to independently determine  
21 that? We don't know.

22           Here's a big one for us. If you look  
23 at the photograph that's with our testimony,  
24 McGinness Airport has two runways that cross  
25 one another. By PennDOT's web site, one of

1 those runways is closed. Couldn't really tell  
2 that from an aerial photograph. So, if we were  
3 supposed to set this up, how do we set it up?  
4 Do we base it on the runway that's opened, or  
5 do we base it on both runways?

6           A conservative engineer says base it  
7 on both runways on it. But if I was a  
8 developer and came in, I'd argue, no, you  
9 shouldn't base it on it, just the one that's  
10 open. Okay, suppose the next owner comes in  
11 and decides to open the runway. Now we've got  
12 to go back and revise our zoning ordinance all  
13 again, you know. A very complicated situation.

14           But there's four examples of how we  
15 handled this thing. We're very aware of it.  
16 We're very concerned about our airport and any  
17 hazard that we would create for it. We take  
18 the Municipalities Planning Code very  
19 seriously, where safety is one of the first  
20 things described in here.

21           Four situations. First was a  
22 proposed cell tower that was within the airport  
23 hazard area. That was the first time I really  
24 looked at the ordinance, or the recommended  
25 model ordinance. And we quickly determined,

1 okay, that doesn't seem like that's going to be  
2 in it. But we made them aware they should  
3 check with the FAA on the thing. We on the  
4 planning commission are certainly not the one  
5 to determine that. It fell through for various  
6 reasons, so that was never an issue.

7           There's also a proposed condominium  
8 tower to be built down at the entrance of the  
9 462, the Veterans Memorial Bridge, the 1930  
10 bridge there in Columbia. That too would be in  
11 there again. That is not built yet. It got  
12 through zoning, they got the appropriate  
13 approval there. It would come before us if  
14 it's going to be built. We said, go check with  
15 the FAA. They did, and it was not going to be  
16 any problem.

17           On a hill very close to the airport,  
18 Lancaster County wanted to build an emergency  
19 tower; not a cell tower, but a tower dedicated  
20 for emergency communications. If the model  
21 ordinance would have been in place, it would  
22 have said you couldn't do that.

23           But, obviously, it's a very  
24 important place to build one. They wanted to  
25 put it there because it communicates out onto

1 the Susquehanna River, and that's about the  
2 only place they could put it to communicate  
3 with anybody that has problems out there for  
4 river rescue. Also, it communicates to all the  
5 buildings within our community, so an ideal  
6 location for that. Again, we said check with  
7 the FAA tower; they have, the tower's been  
8 built.

9           The last one was a -- developers that  
10 came in and down along our river front proposed  
11 a variance to build a 40-story condominium.  
12 That one was going to be a real problem. That  
13 was going to be right on the approach zone. We  
14 recommended to zoning hearing not to grant the  
15 variance along with a lot of other -- There was  
16 a lot of other problems with it, and they  
17 denied that one.

18           So you can see that in Columbia  
19 Borough we're very aware of the model  
20 ordinance, we can work with it. Right now the  
21 way we're set up, we are aware of this airport  
22 hazard area, we take it into account. But we  
23 also have a zoning restriction throughout the  
24 town, and that's very typical of many  
25 municipalities, they'll put 35, 40, 45 feet in

1 there. And to go above that you would have to.

2           So, in a way we have a much stricter  
3 one than that. So we work with this all the  
4 time. If appropriate, we go back to the model  
5 ordinance and look at it. But we don't have to  
6 get involved in these very complicated  
7 questions.

8           So, from Columbia Borough Planning  
9 Commission we are in favor of that. We feel we  
10 can work with what we have and be able to  
11 address all the safety issues.

12           CHAIRMAN FREEMAN: Thank you for your  
13 testimony. Are there any questions from  
14 members? Representative Hickernell.

15           REPRESENTATIVE HICKERNELL: Fred,  
16 thank you for being here. Fred is a  
17 constituent of mine, and it's a pleasure to  
18 have him with us today. You mentioned there  
19 would be significant costs if you had to comply  
20 with this model ordinance. Do you have any  
21 idea what it would cost the Borough of Columbia  
22 if you had to go through that process?

23           MR. ABENDSCHEIN: They looked into it  
24 a number of years ago, and they actually drew  
25 up one. But, looking through that I could find

1 big discrepancies between the model ordinance  
2 and that, so it was going to have to go  
3 by (sic). At that time, and that was probably  
4 eight years ago, the estimate I heard was \$2500  
5 that they were going to have to do. I think  
6 that's way low when you start coming up with  
7 these kinds of questions, and working with the  
8 neighboring municipalities to make things --

9           So I would say basically while they  
10 had an estimate, I think it was way under, and  
11 they would have to go back and look at that in  
12 light of all the other questions involved with  
13 this.

14           REPRESENTATIVE HICKERNELL: Okay.

15           CHAIRMAN FREEMAN: Any further  
16 questions? Chairman Saylor.

17           REPRESENTATIVE SAYLOR: Fred, I was  
18 just looking at the runway dimensions. It  
19 meets the width, but it doesn't meet the  
20 requirements that PennDOT says it should meet  
21 of 2200 feet. It's only 1820 feet long.

22           MR. ABENDSCHEIN: Um-hm.

23           REPRESENTATIVE SAYLOR: Have you ever  
24 had a discussion -- I mean, not that we want to  
25 close it down necessarily, but have there been

1 any discussions about that as well as how  
2 that's -- Are they going to need to be  
3 required -- Is PennDOT ever going to require  
4 them to get to the minimum and buy this  
5 property to have minimum runway requirements?

6           MR. ABENDSCHEIN: I think it would be  
7 very difficult to do that. Again, this sort of  
8 points out the confusion I think that surrounds  
9 these things because, certainly, that was the  
10 first that I heard of the minimum requirements  
11 for the runway. But, you know, it's certainly  
12 something --

13           Because we see the model ordinance,  
14 we hear about the court cases, we really don't  
15 know exactly what does affect us and doesn't  
16 affect us. So we do try to approach it from a  
17 conservative viewpoint on handling these  
18 things.

19           Will PennDOT require it? I doubt  
20 that they would. I think one end of the runway  
21 you're going to run into borough streets and  
22 houses. Out at the other end you're getting  
23 close to West Hempfield, and I think you're  
24 going to have the same issue there. But I do  
25 know that from what I've heard, the children of



1 the present owner does want to keep it as a  
2 private (voice trails off) --

3 CHAIRMAN FREEMAN: Representative  
4 Moul.

5 REPRESENTATIVE MOUL: Thank you, Mr.  
6 Chairman.

7 Fred, as an engineer, if someone  
8 wanted to build a structure, let's just pick a  
9 number, 300 feet from the end of a runway, how  
10 would you as an engineer determine how high he  
11 can build that structure without getting into,  
12 I think what you're calling the conical zone?  
13 I would actually call it the glide slope to the  
14 runway. How would you determine that?

15 MR. ABENDSCHEIN: Well, first off,  
16 this one, when you look at the model ordinance,  
17 I didn't even make it as complicated as it  
18 really exists. There is the approach one. And  
19 this one, while this is the end of the runway;  
20 if you look at the runway this way, I'm really  
21 off to the side because this thing really  
22 encompasses the whole thing, as you can see on  
23 what I drew there. So I'm looking at a case  
24 over here (pointing).

25 But say close to this thing, how

1 would I do it? Well, if the model ordinance  
2 was in place and all the definitions were in  
3 place and everybody agreed to it, then there  
4 are formulas; very easy-to-use formulas in  
5 there that basically would tell us, okay, the  
6 runway is this high, that enters into the  
7 equation; where the start of the building, say  
8 the center line -- or say the part that's going  
9 to be closest to the runway, how high that is.  
10 And then you simply go through a calculation  
11 that takes this into account and puts out this  
12 number. Notice, this is the number I like  
13 because I think it's the most realistic, the  
14 one that planes would actually encounter.

15           REPRESENTATIVE MOUL: So you would do  
16 it at the end of the runway? You wouldn't  
17 use --

18           MR. ABENDSCHEIN: Well, again --

19           REPRESENTATIVE MOUL: Airplanes don't  
20 land right on the very end of the runway.

21           MR. ABENDSCHEIN: Right.

22           REPRESENTATIVE MOUL: I'm trying to  
23 see, as an engineer, if you really know what  
24 you're talking about here.

25           MR. ABENDSCHEIN: Right. Again, what

1 I would do with this thing is, yeah, I would  
2 use what I would consider the end of the  
3 runway. The one that would come most into  
4 play, it's virtually right on top of the  
5 street, and that's the way I would have defined  
6 it. The street is right here (pointing), so  
7 that's where I would start.

8           REPRESENTATIVE MOUL: You wouldn't go  
9 by what the FAA says. You would go by your own  
10 formula?

11           MR. ABENDSCHEIN: Well, since this  
12 model ordinance came from the FAA, that's what  
13 we would be basing it on, yes.

14           REPRESENTATIVE MOUL: Okay. Because  
15 as a pilot our guide slopes are based on  
16 displaced threshold of the runway; not the end  
17 of the runway.

18           MR. ABENDSCHEIN: Um-hm. But the  
19 model ordinance calls it out for the end of the  
20 runway.

21           REPRESENTATIVE MOUL: Okay. I just  
22 didn't know how you determined -- I could  
23 probably sit here and say if you were  
24 300 feet -- How high could you build a  
25 structure 300 feet from the end of runway given

1 the fact it's perfectly level? What distance  
2 up could you go with a normal glide slope  
3 there? Are we talking a one-story building,  
4 are we talking a cell tower? Are we talking  
5 about the 40-story --

6 MR. ABENDSCHEIN: It depends on where  
7 you are with respect to it. The approach on --  
8 When you're right lined up with it is much --  
9 and again, from the model ordinance is just a  
10 straight angle up in there. So it depends on  
11 what that angle is, call it out in the model  
12 ordinance, you know, and this base and what on  
13 earth your land is doing in here. So you have  
14 to know how far your -- what your land contours  
15 look like.

16 REPRESENTATIVE MOUL: Right. Given  
17 that it would be perfectly level, I know  
18 that --

19 MR. ABENDSCHEIN: Depending if it's  
20 perfectly level, then the only thing that  
21 enters into it is the angle of --

22 REPRESENTATIVE MOUL: Your angle of  
23 tech, your --

24 MR. ABENDSCHEIN: -- is the angle of  
25 tech.

1           REPRESENTATIVE MOUL: (Inaudible  
2 words; both speaking at the same time).

3           MR. ABENDSCHEIN: Right, exactly.

4           REPRESENTATIVE MOUL: And if you are  
5 building, let's say a one-story building, a  
6 developer wants to build a rancher, how close  
7 could he build a rancher with a peak? Given  
8 it's perfectly level, what's the angle? I know  
9 you don't know the numbers exactly in your  
10 head.

11           How close could he build to the end  
12 of that runway with a one-story rancher? Say  
13 he has a roof line of 20 feet, how close could  
14 he get?

15           MR. ABENDSCHEIN: I don't know the  
16 answer to that, but it would probably be  
17 within, if I had to guess, maybe one or two  
18 blocks of it.

19           REPRESENTATIVE MOUL: So relatively  
20 close.

21           MR. ABENDSCHEIN: Relatively close, I  
22 would think. Certainly, we have houses there  
23 that are two stories that are not that far away  
24 from it. They're all grandfathered into the  
25 thing.

1           REPRESENTATIVE MOUL:  Okay.  I'm just  
2 curious whether anyone in this particular  
3 situation or with Baublitz ever actually  
4 decided what they could build safely within the  
5 parameters of the glide slope.  You're not  
6 going to know this, but I'm just throwing it  
7 out there.

8           Did anyone actually do the homework  
9 to see what could be built around that airport?

10           (No response.)

11           REPRESENTATIVE MOUL:  That would be  
12 a question I'll probably have for an attorney  
13 later on.  Thank you.

14           CHAIRMAN FREEMAN:  I believe that is  
15 a rhetorical question.  Thank you very much for  
16 your testimony.

17           MR. ABENDSCHEIN:  Okay, thank you.

18           CHAIRMAN FREEMAN:  I next would like  
19 to call up Pitts Dockman, a local landowner  
20 here in Chanceford Township.  Mr. Dockman.

21           MR. DOCKMAN:  Thank you very much,  
22 Mr. Chairman.  Gentlemen, I am nervous beyond  
23 all get out here.  So, please --

24           CHAIRMAN FREEMAN:  We don't want you  
25 to be.

1           MR. DOCKMAN:  So, please -- I wish to  
2 thank Representative Saylor for arranging this  
3 program and also thank you, the committee  
4 members, for coming to Chanceford Township and  
5 your interest in the current status of aviation  
6 within our township.

7           Since adoption of Act 164 in 1984,  
8 our nation and state have seen dramatic  
9 changes.  However, what has not changed are the  
10 bedrock principles behind any municipal  
11 planning or zoning ordinance.  Denial of any  
12 individual's right to use owned property, as  
13 they see fit, is acceptable only if a greater  
14 public good with respect to health, safety and  
15 general welfare is achieved in denying such  
16 right.

17           To improve the health, safety, and  
18 welfare of all Pennsylvanians, Act 164 rewrote  
19 existing aviation regulations.  This  
20 legislative intent can be seen in both the  
21 statute and the regulations promulgated shortly  
22 after the act became law; specifically:

23           5305(e), limitation of powers, 1, no  
24 license shall be issued unless the Department  
25 is satisfied that fair consideration has been

1 given to the interest of the communities in or  
2 near which the proposed airport is to be  
3 located.

4 Chapter 471.3, airport licensing,  
5 (e), transfer of license. A license issued  
6 under this chapter is not transferable unless  
7 prior written approval is granted through the  
8 Bureau. If the Bureau does provide written  
9 approvals for the transfer of a license, the  
10 new licensee shall pay the initial license fee  
11 and inspection fees and the landing area shall  
12 meet current licensing criteria.

13 At this point it is important to  
14 note, the authority to operate an airport on a  
15 specific land mass rests in the license issued  
16 by the Bureau to an individual, person, and not  
17 within the land itself. Through this mechanism  
18 the legislature sought to improve public  
19 safety. If a grandfathered licensee did not  
20 bring his operation up to current regulated  
21 standards, then upon his death airport  
22 activities would stop at that site.

23 Representative Saylor and Mr.  
24 Chairman, I have reviewed your Bill 2159 and  
25 fully support your effort to put the community



1 back into the health, safety and general  
2 welfare equation when it comes to aviation.  
3 Pennsylvania does need an efficient system of  
4 public airports which actually serve the  
5 public, and that system of public airports  
6 needs to be protected.

7           At great expense townships of  
8 Pennsylvania are being required by the Supreme  
9 Court decision in the Baublitz case to adopt  
10 airport hazard zoning ordinances for what  
11 amounts to playgrounds for the few citizens  
12 that can afford a plane. To put it another  
13 way, the only way the public can enter a  
14 privately-owned airport is if they fly in via  
15 plane.

16           Your modification to the definition  
17 of airport to exclude privately-owned public  
18 airports that do not provide regularly-  
19 scheduled commercial flight operations on at  
20 least two days per week seems to be a proper  
21 balance. This removes a subdivision having to  
22 support a private business with public tax  
23 dollars.

24           Shortly after my wife and I purchased  
25 our farm in 1987, we met with Mr. Gromlowicz,

1 who testified here, at the Bureau of Aviation  
2 when its offices were near Harrisburg Airport.  
3 During that conversation we were assured the  
4 license issued to Levere Baublitz would never  
5 be transferred because the landing area did not  
6 conform to criteria A requirements. He  
7 explained that as a grandfathered operation Mr.  
8 Baublitz could continue to operate his airport  
9 in its current state, but that upon his death  
10 the Bureau would not issue a new license.

11           Thus, since 1974, as he was legally  
12 entitled to, Mr. Baublitz continued to operate  
13 his airport. Since 1984, the Bureau of  
14 Aviation, having no enforcement power over  
15 grandfathered airports, prepared annual master  
16 inspection reports listing the same hazards at  
17 Baublitz Airport. Public safety had to wait  
18 for 15 years.

19           I do not understand why, but the  
20 Bureau of Aviation has abandoned its mission to  
21 protect Pennsylvanians. Today, as is evident  
22 by what has transpired at Baublitz Airport, the  
23 Bureau sees its mission solely to promote and  
24 protect aviation.

25           Since you will be going out to the

1 airport shortly, the following map from the  
2 York County GIS system should help orient you.  
3 As you can see, the Red Lion Area Chanceford  
4 Elementary School, in blue at the end of the  
5 red line, is clearly within the approach path  
6 of the airport and about 6,000 feet away. I  
7 hope even today an application for a new  
8 airport would be denied because of its  
9 proximity to an elementary school.

10           The next map is a subdivision plan  
11 that was prepared by Mr. Baublitz. As you can  
12 see, the airport property yellow is  
13 predominately a 100-foot wide stripe of land.  
14 When you go to the airport, please note on the  
15 southern side of the runway the steep slope to  
16 the adjoining property.

17           This occurred during the runway  
18 grading project, which supposedly brought the  
19 airport into conformance with existing landing  
20 criteria, and is not permitted by township  
21 zoning ordinances even with the approval of the  
22 impacted neighbor. Had the zoning ordinances  
23 been properly enforced by requiring the slope  
24 created during the grading project to be on  
25 airport property, then the resulting runway

1 surface would not even be the required 100-foot  
2 width.

3           On this map I have drawn the 250-foot  
4 required primary surface. The green X marked  
5 area is that portion of the primary surface on  
6 my land. The orange slashed marked area is  
7 another portion of the primary surface not  
8 owned by the airport. Together, the unowned  
9 portion of the primary surface is almost as  
10 large as the total property owned by the  
11 airport. The blue shaded area represents my  
12 land that any object 10 foot high would be  
13 prohibited by FAA FAR 77 regulation.

14           On October 23, 2007, the FAA approved  
15 a project I submitted to build a fence within  
16 one foot of the property line between me and  
17 the airport. Why is this important? Because  
18 by requiring a public airport to have a  
19 250-foot primary surface, the FAA recognizes  
20 the surface is airport property irrespective of  
21 ownership.

22           Additionally, the FAA recognizes that  
23 their FAR 77 regulations start at the edge of  
24 the primary surface, and as such, did not  
25 pertain to my fence project. The model airport

1 zoning ordinance also refers to areas in the  
2 vicinity of an airport, and does not include  
3 the airport property.

4           Had Chanceford Township adopted an  
5 airport ordinance prior to the death of Mr.  
6 Baublitz, they would not have been able to  
7 control what happens on the non-airport owned  
8 portion of the primary surface. The concept  
9 that the primary surface need not be owned but  
10 only controlled is not supported by the FAA,  
11 and the Bureau should rectify their error by  
12 revoking the public airport license at this  
13 site.

14           We would be happy to provide the  
15 committee with any and all documentation to the  
16 above testimony. And in closing, I urge the  
17 committee to support the existing bill, 2159,  
18 or a similar bill with minor rewrites, and  
19 press for the passage in the current  
20 legislative session.

21           That is my statement, and I  
22 appreciate the time and am willing to take any  
23 questions you may have.

24           CHAIRMAN FREEMAN: Thank you for  
25 time. Are there any questions for the

1 gentleman?

2 (No response.)

3 CHAIRMAN FREEMAN: Seeing none, we  
4 thank you for your testimony.

5 MR. DOCKMAN: Thank you very much.

6 CHAIRMAN FREEMAN: We are going to  
7 dispense with the scheduled break and instead  
8 proceed with the testimony and take a later  
9 break.

10 I'd like to call next up for  
11 testimony John Rinehart, Aviation Council of  
12 Pennsylvania. Mr. Rinehart is a board member  
13 of that council. Mr. Rinehart, welcome.

14 MR. RINEHART: Thank you.

15 CHAIRMAN FREEMAN: Feel free to begin  
16 at any time. I believe the members did receive  
17 a copy of your testimony.

18 MR. RINEHART: Yes, and there is one  
19 correction on page 5. I mistakenly typed in  
20 63 rather than 62 privately-owned, public-use  
21 airports. So with that minor correction, I  
22 will proceed.

23 CHAIRMAN FREEMAN: Sir, I'm going to  
24 have to make sure you can't testify now.

25 MR. RINEHART: Okay. I'll be glad to

1 answer any questions, time of day, you know,  
2 day of week, et cetera.

3           CHAIRMAN FREEMAN: Don't worry, it's  
4 okay.

5           MR. RINEHART: Good morning, Chairman  
6 Freeman, and members of the House Local  
7 Government Committee. It's a pleasure to come  
8 before you today to discuss the proposed House  
9 Bill 2159.

10           I am John Rinehart, a recently  
11 retired airport director of Reading Airport, a  
12 board member and past president of the Aviation  
13 Council of Pennsylvania, and a licensed pilot  
14 with pilot and command experience in a wide  
15 variety of aircraft.

16           The Aviation Council is a 260-member  
17 association representing airports, pilots, and  
18 aviation-related commercial activities.  
19 Sixty-two, catch that, of our member airports  
20 are privately-owned, public-use airports.

21           The Aviation Council's mission is to  
22 represent the Pennsylvania aviation community  
23 in matters involving government and private-  
24 sector interests; to improve aviation in  
25 partnership with the Commonwealth, and the

1 federal government; and to increase public  
2 awareness of aviation in the Commonwealth.

3           The Commonwealth of Pennsylvania has  
4 133 public-use airports that are utilized daily  
5 by a variety of business, industry, medical,  
6 flight training, personal and recreational  
7 users. To reiterate, 62 of these airports, or  
8 47 percent of the total number of airports, are  
9 privately-owned, public-use airports. All  
10 strengthen their community's ability to attract  
11 and maintain a wide variety of businesses and  
12 industries.

13           The Aviation Council of Pennsylvania  
14 does not support House Bill 2159. In our view  
15 it might better be titled, the Pennsylvania  
16 Privately-Owned, Public-Use Airport Closure Act  
17 of 2008. Our principal concerns are:

18           1, the need for uniform safety; 2,  
19 the continued operation of privately-owned,  
20 public-use airports; 3, funding; and 4, support  
21 for the current law.

22           The need for uniform safety. Safety  
23 is the principal concern of all engaged in  
24 aviation. We pilots are continually drilled in  
25 all matters of safety for our own health and



1 welfare, as well as for those on the ground.

2 Ours is a common goal, to depart from, proceed  
3 to, and arrive safely at our destination.

4           We airport administrators keep  
5 continual watch over our airports to maintain  
6 and operate them in a manner that ensures the  
7 safe operation of aircraft on the airport and  
8 in the regulated airspace surrounding the  
9 airport.

10           The Federal Aviation Administration,  
11 FAA, has established uniform safety regulations  
12 for all public-use airports, the airport  
13 equivalent of a BOCA code. These preempt all  
14 other aviation regulations in the United  
15 States. States are free to enhance these  
16 regulations but not to enfeeble them.

17           Airport hazard zoning is a key  
18 element for maximizing the safety at our  
19 public-use airports and their environs. The  
20 Pennsylvania code reinforces that element of  
21 the FAA regulations in support of aviation  
22 safety. Municipality adopted airport hazard  
23 zoning regulations, pursuant to the  
24 Pennsylvania Airport Hazard Zoning Act 164,  
25 ensure and enhance the highest level of safety

1 for both the aircraft operator and the general  
2 public.

3           It is critical that safety  
4 requirements comply with FAA standards and that  
5 they be uniform at all Pennsylvania's  
6 public-use airports, whether publicly or  
7 privately owned. The citizens of Pennsylvania  
8 are entitled to a single and consistent  
9 standard for safety. Dividing airports by  
10 ownership would compromise the application of  
11 uniform safety standards.

12           The continued operation of  
13 privately-owned, public-use airports. The  
14 Aviation Council is concerned that H.B. 2159  
15 could effectively and systematically close  
16 most, if not all, of the 62 privately-owned,  
17 public-use airports over time.

18           Publicly-owned airports have the  
19 right of eminent domain and the ability to  
20 secure public funds to support the enactment  
21 and enforcement of airport hazard zoning.  
22 Privately-owned, public-use airports have  
23 neither.

24           Consequently, privately-owned,  
25 public-use airports not protected by airport

1 hazard zoning may be forced to close by the  
2 intrusion of hazards permitted by the  
3 municipality. Strangely, an unintended  
4 consequence of H.B. 2159 may be the potential  
5 for reverse condemnation proceedings by the  
6 private airport owners against municipalities  
7 for failing to protect their permitted right to  
8 use the property as an airport.

9           The assessment possibility proposed  
10 in H.B. 2159 could ruin most of the  
11 62 privately-owned, public-use airports and  
12 could be easily used as a tool by a  
13 municipality and airport neighbors to force the  
14 closure of airports within the municipality.

15           Funding. One of the issues at hand  
16 is the matter of which party will bear whatever  
17 costs may be incurred in the endeavor to ensure  
18 hazard zoning protection for privately-owned,  
19 public-use airports. Municipalities may argue  
20 that the requirement to impose hazard zoning  
21 constitutes an unfunded mandate. If required  
22 to bear the costs, privately-owned, public-use  
23 airports could argue in like manner.

24           The Aviation Council contends that  
25 expenses should be borne by the municipality in

1 conjunction with the Commonwealth because the  
2 zoning is necessary for the health, safety and  
3 welfare of all its citizens.

4           Further, since many municipalities  
5 have failed to take action since the statute  
6 was enacted in 1984, they should bear the  
7 increased costs resulting from their delay.

8           The Aviation Council believes that  
9 H.B. 2159 should be referred to the House  
10 Finance Committee as it has real potential  
11 financial implications for the state and local  
12 governments. Appropriations may need to be  
13 made to address litigation and to pay for  
14 damages that may be awarded by the Court.

15           Support for present law. In closing,  
16 the Aviation Council supports the Pennsylvania  
17 Airport Hazard Zoning Act, Act 164, enacted in  
18 1984 and subsequently resolved in the courts of  
19 Pennsylvania. We are concerned that H.B. 2159  
20 is intended to circumnavigate the will of the  
21 people of Pennsylvania as expressed by the  
22 General Assembly and the courts.

23           The present law should not be  
24 weakened to advance the interests of the very  
25 few over largely local disputes at the expense

1 of overall safety. Any such weakening might  
2 encourage other communities to take restrictive  
3 actions against any and all airports.

4 We appreciate the opportunity to come  
5 before you today on this critical matter, and  
6 we thank you for your time and attention.

7 CHAIRMAN FREEMAN: Mr. Rinehart,  
8 thank you for your comments. Are there any  
9 questions from the members?

10 (No response.)

11 CHAIRMAN FREEMAN: Seeing none, we  
12 thank you for again coming.

13 MR. RINEHART: Thank you.

14 CHAIRMAN FREEMAN: Mr. Tim Tate,  
15 Chairman of the Susquehanna Regional Airport  
16 Authority is with us today, but has not  
17 submitted any testimony. I believe he's  
18 probably in line with Mr. Rinehart's comments  
19 if I understand correctly.

20 MR. TATE: Yes, that's correct. I  
21 apologize. We had a board meeting this morning  
22 at the airport authority, and I wasn't sure I  
23 was even going to be able to make it here.

24 CHAIRMAN FREEMAN: That's okay.

25 MR. TATE: We finished up quickly and

1 I'm here to attend.

2           CHAIRMAN FREEMAN: We appreciate your  
3 attendance.

4           MR. TATE: Thank you.

5           CHAIRMAN FREEMAN: We'll move on to  
6 Dennis Makel, attorney and solicitor for Union  
7 Township in Washington County.

8           MR. MAKEL: I also have Mr. Parish  
9 here from Union Township. He's the chairman of  
10 the Board of the Supervisors in Union Township.

11           CHAIRMAN FREEMAN: Gentlemen, thank  
12 you for your attendance here today and please  
13 feel free to proceed with your testimony.

14           MR. MAKEL: I did give a statement.  
15 I think a copy of my statement was provided to  
16 the board. But before I give my statement,  
17 I'm sort of a little bit aghast by some of the  
18 comments made by the gentleman before me about  
19 the cost and the impact of the airport.

20           We're from Washington County,  
21 Pennsylvania, which is on the border of West  
22 Virginia. In fact, we left Washington County  
23 about 3:30 this morning because we feel that  
24 strongly about this whole process. We really  
25 support very strongly the House bill amendment

1 made by Mr. Saylor. I've been in touch with  
2 Mr. Zerbe from his office. I think it's a  
3 fabulous amendment to a bill that needs to be  
4 amended from my experience.

5           Union Township is along the  
6 Monongahela River. It surrounds an airport  
7 called the Finleyville Airport, which is  
8 basically a private airport where we have a  
9 bunch of gentlemen from Allegheny County who  
10 drive the Mercedes-Benzes and Jaguars who  
11 basically use this airport for basically a  
12 hobby-type situation, as you called it a hobby  
13 airport, which I think is a very good way of  
14 looking at it.

15           In Finleyville, Union Township, there  
16 is no basic public use that the community has.  
17 There isn't any type of benefit, commercial  
18 benefit that the community has. In fact, we're  
19 currently in litigation, just like Baublitz in  
20 Chanceford, we've been in litigation for the  
21 past year or so because we are also underneath  
22 the gun to pass an ordinance which may have an  
23 implication of over a hundred thousand dollars  
24 in terms of inverse condemnation that the  
25 township may face by passing this type of

1 ordinance.

2           The property owner next door has a  
3 farm, 70 acres, which probably maybe in  
4 Washington County a low-ball acreage cost of  
5 maybe 5,000 an acre, depending upon how this  
6 zoning comes through because there have been  
7 discussions. So we are looking at a financial  
8 impact on the township at this point in time,  
9 not only the cost of inverse condemnation, but  
10 also in the cost of litigation that we've been  
11 facing in the past year, year and a half.  
12 There is an impact on the municipality.

13           This is a private airport that,  
14 basically, if you'd walk up there you'll see  
15 some guys having bars set up in their hangers  
16 and they're drinking beer and drinking thing  
17 and they invite you to come over to have a  
18 drink.

19           I don't see a benefit to the  
20 community. I don't see a benefit to an  
21 80-year-old lady who lives in a house who's  
22 watching her money to pay her tax dollars when  
23 she can't even afford to buy gas, or she can  
24 even afford to pay her school taxes.

25           So when I hear someone say the



1 benefit to the community, I'm a little bit  
2 aghast what benefit that Finleyville gets or  
3 Union Township gets. That's the reason why  
4 we're here today, Mr Parish and myself, because  
5 we feel so adamant about the change in this  
6 bill that needs to be made that we drove -- I  
7 almost fell asleep coming over, so I had Mr.  
8 Parish drive. But we feel so strongly that  
9 this act needs to be amended because it does  
10 have impact on the municipality.

11           When I heard the man from PennDOT  
12 speak this morning, I'm trying to think, he  
13 spoke in such broad strokes about the economic  
14 impact to the community. He mentioned no  
15 basis, no evidence to show there was an  
16 economic impact because I can't see any in  
17 Finleyville or Union Township.

18           So, when I hear these statements  
19 being made, they're all broad statements, but  
20 with no empirical data to support their  
21 statements. I can tell you from my experience,  
22 the cost of litigation is probably over  
23 \$20,000 for Union Township at this point in  
24 time, and we're also looking at inverse  
25 condemnation with the property owner because

1 it's a big fight. I had to get that off my  
2 chest first before I read my statement because  
3 I was real taken back by some of the comments  
4 made today. And I'm not a pilot and I don't  
5 have a Mercedes, by the way.

6 MR. PARISH: And the property  
7 adjacent to this -- We're talking about zoning  
8 before. The property adjacent to this is zoned  
9 R3 for residential housing, and it abuts right  
10 up to the airport and the runway. The existing  
11 runway right now just comes right to the end of  
12 the airport properties.

13 There's approximately 30 other  
14 homeowners adjacent to the airport that are  
15 affected and are very concerned about the  
16 property values and noise levels, and so forth,  
17 that would be generated if this continues to --  
18 If they expand this down the road, or something  
19 like that, it could have a real impact on the  
20 community.

21 MR. MAKEL: I'll read my statement  
22 into the record. Good morning, my name is  
23 Dennis Makel, and I'm sitting next to Mr.  
24 Parish. I serve as a solicitor for several  
25 municipalities. In fact, my office serves

1 about 17 municipalities in Washington and  
2 Greene counties. I'm specifically here on  
3 behalf of Union Township, Washington County, to  
4 express the township's support for the passage  
5 of the amendment of the Airport Zoning Hazard  
6 Act through House Bill 2159 that's being  
7 promulgated by Mr. Saylor.

8           I ask the legislature to take this  
9 support and its considerations into account and  
10 vote for the passage of this bill.

11           Union Township is located in  
12 Washington County, Pennsylvania, and it borders  
13 Allegheny County. It's main town center is  
14 Finleyville, and we have one airport located in  
15 the township. The airport is one that meets  
16 the definition of a public airport, in that,  
17 it's privately owned, but it's held open for  
18 public use.

19           Union Township has a history that is  
20 similar to that of Chanceford, in that, we have  
21 been the subject of a mandamus lawsuit  
22 compelling us to enact the model Airport Hazard  
23 Zoning Act. In light of the Pennsylvania  
24 Supreme Court decision in the Chanceford  
25 litigation, we know that under the present

1 state of law we have little choice but to adopt  
2 this model ordinance for the benefit of public  
3 and private airports, although, in effect, we  
4 are thus compelled to enact an ordinance for  
5 the benefit of one private landowner of this  
6 airport; not the community itself.

7           In order to comply with the recent  
8 Supreme Court decision, we are in the process  
9 of enacting this legislation now.

10           It is our opinion that these court  
11 decisions have completely removed the power and  
12 the authority of our own board of supervisors,  
13 a legislative body, not unlike the Pennsylvania  
14 House and Senate, to draft and debate its own  
15 ordinances all for the benefit of one public  
16 landowner, the township.

17           Although we do recognize that the  
18 ability to legislate is not a part of the  
19 pending bill, we support this bill because it's  
20 clear that its drafters saw this horrible  
21 restriction on legislative powers and have  
22 included provisions in House Bill 2159 to try  
23 to shift the public duties for a private  
24 landowner's benefit back into the individual  
25 landowner.

1           Specifically, we mean the amended  
2 assessments section. This section is  
3 5912.1 assessments. In that proposed section,  
4 if the airport ordinance is enforced against a  
5 landowner and the landowner obtains  
6 compensation in the form of a takings claim or  
7 eminent domain, the township will have a means  
8 of getting that same dollar amount back from  
9 the airport's owners. It does not matter if  
10 this case resolves by court order or by  
11 settlement.

12           That is fair in that this zoning, of  
13 which we do not have a choice, may be enforced  
14 and probably will be enforced for a private  
15 airport landowner's benefit, but not a benefit  
16 of the general citizenry. Why should all the  
17 citizens of Union Township have to pay when  
18 there's a benefit to only one landowner, and  
19 the one it benefits is a commercial enterprise  
20 for profit.

21           Union Township recommends that this  
22 amendment be passed without second thoughts, in  
23 that, it shifts the burden of enforcement costs  
24 onto the for-profit entity that receives its  
25 benefits, while leaving public tax dollars to

1 be spent on improvements to benefit the entire  
2 community. We can't state this point strongly  
3 enough.

4           Union Township, through the elected  
5 representation of their governing bodies,  
6 supports these amendments for the reasons we  
7 assert here today. Shift these enforcement  
8 costs to the entity that both benefits from  
9 them and can afford to pay those costs.

10           We ask that you vote to approve this  
11 House bill and protect the citizens and the  
12 taxpayers from shouldering a cost that benefits  
13 private landowners operating their airports for  
14 profit.

15           As I said to you before, ladies and  
16 gentlemen, when I hear some of these comments  
17 being made about the benefit -- One gentleman  
18 saying place the benefit -- the cost on the  
19 municipality. This personally represents a lot  
20 of different municipalities where we have  
21 people, elderly people who don't have the money  
22 to pay for their fuel bills and they don't have  
23 the money to pay for things. Why should those  
24 tax dollars go from those people to pay for  
25 somebody who has a Jaguar and has a hobby

1 airport? I really feel strongly about that.

2 I think that the tax dollar should  
3 remain with the municipality, and if there's  
4 any cost incurred for inverse condemnation,  
5 that cost should be borne by the airport; not  
6 by the municipality because we don't benefit by  
7 it. We have no benefit. So, when I hear some  
8 of these statements being made, I'm a little  
9 bit aghast at that.

10 Furthermore, another situation, I've  
11 heard the PennDOT gentleman talk, there is no  
12 assistance that I ever received from PennDOT  
13 when we first considered doing the Airport  
14 Zoning Act, because I called up PennDOT Bureau  
15 of Aviation -- Sorry I'm talking so fast.  
16 We're trying to get back to Washington shortly.

17 But when I talked to PennDOT, they  
18 said, here's the airport zoning, model airport  
19 zoning ordinance, just adopt it. There was no  
20 assistance or anything like that.

21 So, I think some of the comments  
22 being made today are such broad strokes that I  
23 don't think there's any empirical evidence or  
24 any empirical data to support their statements  
25 that they gave you today. But I ask you one

1 thing when you consider this act, or this  
2 amendment, consider the old lady who can't pay  
3 her fuel bill, who can't pay her taxes, who  
4 can't pay her other bills. I ask you to  
5 consider that. Thank you.

6 CHAIRMAN FREEMAN: Gentlemen, we  
7 thank you for your testimony. Are there any  
8 questions from the members? Representative  
9 Cutler.

10 REPRESENTATIVE CUTLER: Thank you,  
11 Mr. Chairman.

12 Just from a legal standpoint, I have  
13 a question about airports. I heard the  
14 gentleman from PennDOT earlier say about  
15 expanding the infrastructure and such with  
16 these airports in the state. How does the  
17 existing easement that they have in their glide  
18 zones I believe was the term that my colleague  
19 used earlier, how does that change as they  
20 expand their uses in the airport?

21 For example, if we go from having  
22 only a few flights a day to having a dozen or  
23 more a day, that's obviously a unilateral  
24 extension of that easement on the surrounding  
25 properties.



1           And I know, for example, when I  
2 worked on the planning commission where we had  
3 right of ways and driveways, you could not  
4 change the existing use of the land that had an  
5 easement without the permission of the adjacent  
6 property owners. How does all of that interact  
7 with this?

8           MR. MAKEL: Well, there is what I  
9 call the bowl effect, which is your flight --  
10 which I think this gentleman is aware of, this  
11 bowl effect. Right now the airport is -- And I  
12 don't want to mesh (phonetic) your question.  
13 The airport that we're talking about is looking  
14 at expanding possibly down the road its general  
15 flight situations --

16           REPRESENTATIVE CUTLER: Okay.

17           MR. MAKEL: -- which will then impact  
18 the property owner who owns -- That lady owns  
19 about 70 acres of property, which I think, well  
20 then, she's going to--We already know it's  
21 going to happen--she'll file the inverse  
22 condemnation because of the increased use of  
23 that easement over her property. And then when  
24 she does that, then the next thing I'm going to  
25 deal with is inverse condemnation against the

1 township where there's been some figures  
2 already thrown around to the township of over a  
3 hundred thousand dollars for the increased use.  
4 Does that make sense to you?

5           REPRESENTATIVE CUTLER: It does. It  
6 does.

7           MR. MAKEL: And then who pays the  
8 cost for that? It's not the gentleman from the  
9 airport, the Aviation Council. It's the little  
10 old lady who has to -- we have to raise taxes,  
11 who can't pay her bills.

12           REPRESENTATIVE CUTLER: I guess  
13 that's my question with determining a licensing  
14 process. I'm not a pilot and we don't have an  
15 airport in my district, so I'm not familiar  
16 with it. But, when they're expanding the use  
17 of their property in that manner, I just don't  
18 understand how that can happen unilaterally  
19 without the permission of the surrounding  
20 owners.

21           MR. MAKEL: That's the issue we have  
22 right now before us.

23           MR. PARISH: Right. The way this  
24 Act 164 stands right now, they can eminent  
25 domain the property. The municipality would

1 have to eminent domain that property to take it  
2 and give it to the airport people, and then  
3 what they would do then, the inverse  
4 condemnation would be filed against the  
5 township --

6           REPRESENTATIVE CUTLER: Against the  
7 township, okay.

8           MR. PARISH: And that's where it  
9 would go.

10           I think one thing in the federal law  
11 I may check is, I think the federal law says  
12 that the property that the airport has to own  
13 has to be 500 feet. After the end of the  
14 runway, they have to own the property past that  
15 too. I thought I read that in the federal  
16 regulations, and I don't know if that's  
17 included in that or not.

18           REPRESENTATIVE CUTLER: And that  
19 would actually bring me to my final question.  
20 The gentleman from Columbia earlier spoke about  
21 how their zone would actually impact, I believe  
22 it was three municipalities, a borough and two  
23 townships.

24           How does federal preemption play  
25 into that with regards to -- I mean, obviously,

1 you, as your township, can't make your  
2 neighboring townships adopt an ordinance to  
3 reflect that. But where does that come into  
4 play?

5 MR. MAKEL: Well, our airport is  
6 located --

7 REPRESENTATIVE CUTLER: Is it  
8 centrally located?

9 MR. MARKEL: -- is centrally located.  
10 So it's not going to --

11 REPRESENTATIVE CUTLER: So it's  
12 solely your township.

13 MR. MARKEL: Solely our township.

14 REPRESENTATIVE CUTLER: Well, then as  
15 an attorney I guess my question to you would  
16 be, what is wrong with drafting an ordinance or  
17 a provision that you simply defer to the FAA  
18 with regards to what you build in those  
19 approach paths? Because that sounded like what  
20 Columbia has been doing with the cell towers,  
21 and things like that. I'm not sure why you  
22 have to spend all this money to do a model  
23 ordinance that, in turn -- you know, that's  
24 suggested by the FAA when -- You know, why  
25 can't you just go to them and say, hey, are

1 these --

2           MR. MAKEL: Because you just can't --  
3 If you read Act 164 -- And Act 164, from my  
4 perspective, needs to be clarified because the  
5 courts don't even know what the system is to  
6 adopt the whole process, because you have to go  
7 through -- And I've read enough (inaudible  
8 word; slurred) to drive me up the wall. It's  
9 vague because you have to -- The planning  
10 commission has to sit, they have to have public  
11 hearings.

12           REPRESENTATIVE CUTLER: Right.

13           MR. MARKEL: After they have the  
14 public hearings they have to get certain  
15 evidence, and then they have to issue a -- some  
16 type of study. I can't remember the name of  
17 the study, but they issue a study for adoption.  
18 That study then goes to the municipality for  
19 review and possible adop -- you know,  
20 consideration of what type of ordinance you're  
21 supposed to adopt. You have to go through a  
22 separate procedure.

23           We just can't say we're going to  
24 adopt the FFA regulations. We have to have  
25 public input from the community as to what this

1 bowl effect will have on the property before we  
2 can get to that stuff. We just can't say we're  
3 going to adopt it. The act doesn't permit you  
4 to do that.

5           REPRESENTATIVE CUTLER: I was  
6 actually thinking a step further to just say,  
7 to have your ordinance say, we're going to  
8 defer to the FAA, with whatever -- You know,  
9 they have to give approval, not us. I guess  
10 you can't do that.

11           MR. MAKEL: No, you simply can't do  
12 that. The act doesn't say -- Act 164 says you  
13 have to go through certain parameters, certain  
14 procedures before you can do that. And you're  
15 supposed to make it a well-reasoned decision  
16 rather than say we defer to the act.

17           REPRESENTATIVE CUTLER: Okay. Thank  
18 you very much.

19           CHAIRMAN FREEMAN: I assume, too,  
20 there are certain procedures of the MPC?

21           MR. MAKEL: Yes, you have also have  
22 to abide by that too. That's another situation  
23 you have to look at. It's not just easy to  
24 say, we're going to adopt this, you know, the  
25 FAA regs and just walk away from it.

1           MR. PARISH: Another thing is, we  
2 have property owners that have been around the  
3 airport. In fact, they were there before the  
4 airport even got there. Now, they would be  
5 grandfathered in, and can they just force these  
6 restrictions or force them to -- that their  
7 property be worthless? Do they have to  
8 maintain it for the airport's use? I mean,  
9 that's a big question too. What do you do?

10           If you can't build a fence or  
11 maintain your property, build a fence, you want  
12 to put cattle in there if you have a farm, then  
13 what do you do with the property? I mean,  
14 you're grandfathered in, you were there before  
15 the airport came in there, and now you're so  
16 restricted and the property sits dormant that  
17 you can't do anything with it. Then who's  
18 going to --

19           You have to maintain it to the specs  
20 of the airport on the flight paths coming in.  
21 Then why should the adjacent property owner  
22 have to maintain it? It should be the airport  
23 people should have -- own the property and they  
24 should maintain it.

25           CHAIRMAN FREEMAN: Any further

1 questions from members? Representative Moul.

2           REPRESENTATIVE MOUL: I basically  
3 would make a statement. By the way, I own an  
4 airplane. I'm a pilot and I drive a Dodge.

5           MR. MAKEL: I'm just telling you what  
6 I see up there. I drive a Ford Taurus. I  
7 drive Fords.

8           REPRESENTATIVE MOUL: Please don't  
9 have the misconception that guys who own  
10 airplanes, all of us are rich. It's just where  
11 we choose to spend our money.

12          MR. MARKEL: I'm just telling you  
13 what I saw up at the airport.

14          REPRESENTATIVE MOUL: But you also  
15 made a statement that this benefits one  
16 landowner.

17          MR. MAKEL: The airport.

18          REPRESENTATIVE MOUL: Incorrect.  
19 This is for the safety of the pilots, whether  
20 they're transient or whether they're based  
21 there, that fly in and out of that airport,  
22 whether it even be yourself. If you were to be  
23 friends with someone who would own an airplane  
24 and you say, take me up for a joy ride today,  
25 it's for the safety of you getting in and out



1 of that airport. It's not to benefit a  
2 landowner.

3 I just wanted to make that comment.  
4 That rubbed me a little bit the wrong way.  
5 This is set up as a safety issue for people  
6 flying airplanes; not necessarily the person --  
7 I know an airport owner that doesn't even have  
8 a pilot's license.

9 MR. MAKEL: I apologize if I rubbed  
10 you the wrong way. But when I hear some  
11 statements being made about the cost -- And  
12 I've been in homes of people in the area. I  
13 recall an 80-year-old lady that I was in her  
14 home, and she's complained to me about not  
15 having money to pay her gas bills, to pay money  
16 for her car, and money for taxes.

17 And then when I hear some people say,  
18 let the borough or the township take tax  
19 dollars to pay that, that rubs me the wrong way  
20 because I grew up not in an affluent thing. I  
21 grew up in half a house in a coal mining patch.  
22 I know what it's like not to have a lot of  
23 money. And when I hear people saying, let the  
24 taxpayers pay for it, that sort of rubs me. I  
25 apologize.

1           REPRESENTATIVE MOUL: Don't  
2 misunderstand me. This is about safety. This  
3 isn't about landowners. And I'm with you with  
4 the little old lady. She shouldn't even have  
5 to pay school taxes, but unfortunately --

6           MR. MAKEL: But I think if you want  
7 to put an unfunded mandate on the township, the  
8 township shouldn't be responsible for the cost  
9 of that. If somebody has -- If they have the  
10 money to pay for it, let the airport pay for it  
11 through fees, through the people using the  
12 airplane. That's my position.

13           REPRESENTATIVE MOUL: Thank you.

14           CHAIRMAN FREEMAN: Let's proceed with  
15 the rest of the questions. Representative  
16 Perry.

17           REPRESENTATIVE PERRY: Thank you, Mr.  
18 Chairman. I do have a comment too.

19           I just got to say that I would  
20 hope -- As I was appalled a little bit with  
21 some of the other comments, I've got to tell  
22 you I'm appalled regarding the Mercedes, and so  
23 forth. I mean, what type of car you or I drive  
24 has nothing to do with the issue at hand here.  
25 I don't see why personalizing that part of the

1 issue has any fruitful value. I've got a  
2 Dodge, a Chevy and a Volkswagen.

3 MR. MAKEL: I've got two Fords.

4 REPRESENTATIVE PERRY: It has nothing  
5 to do with anything. Regarding the little old  
6 lady, I've had people come into the office and  
7 throw their bills at me that they can't pay and  
8 they're going to lose their house, and then  
9 they drive away in a brand-new Cadillac. It's  
10 not mine to judge whatever their situation is.  
11 Let's stick to issue at hand, and it has  
12 nothing to do --

13 When you say that it has no intrinsic  
14 value to any other landowners in the area or  
15 other people in the area, I don't know if the  
16 person that lives next to the airfield sold the  
17 Mercedes or works on the Mercedes. So, that  
18 has nothing to do with anything.

19 I'll just ask you this. When you  
20 talked about the intrinsic value of the homes  
21 nearby, and so forth, and the land, or that  
22 could be there, how long has this airport been  
23 there?

24 MR. MAKEL: How long, Steve?

25 MR. PARISH: Since 1947.

1           REPRESENTATIVE PERRY:  Since 1947.  
2 I've just got to make a point.  If somebody  
3 buys the piece of ground next to the airport;  
4 like, if somebody buys the piece of ground next  
5 to the racetrack and expects not to hear race  
6 cars or expects not to hear airplanes --

7           I'm not saying that they should have  
8 to pay for the cost of the airport, and I  
9 understand that they're infringed upon, their  
10 privacy or whatever, by the airport or the  
11 racetrack or the sewer plant being there, but  
12 unless they owned the land before the airport  
13 was there, I've got to tell you, I don't think  
14 they have much of a leg to stand on to say,  
15 hey, we don't want the airport, because that's  
16 what happens.  They move in and then they say,  
17 we don't want this here anymore.  They made the  
18 choice to move in.

19           MR. PARISH:  That's why I was saying,  
20 the property adjacent to this could be a  
21 question is -- was owned before.  That's why I  
22 said, is that grandfathered in because it was  
23 owned well before the airport came in.

24           REPRESENTATIVE PERRY:  And if it was,  
25 then I think that there's a case there.  I

1 mean, I think there's both sides of this story.

2           But understand too, we're not talking  
3 about just the ground because, just like a  
4 waterway, you might own the ground underneath  
5 the waterway in Pennsylvania, but other people  
6 can traverse the waterway.

7           The air is the same thing. And if  
8 you're on an airplane, maybe somehow you sold  
9 your Mercedes and you were able to afford a  
10 charter ticket on an airplane that left this  
11 little field in Washington County and you're  
12 traveling across the state and there were  
13 mechanical problems, that pilot at some point  
14 has to find a place to land. And if there is  
15 nowhere --

16           And I don't know the full effect of  
17 the proposed legislation, and I might look at  
18 amendments or something to try to find some  
19 middle ground here. But, if there's no place  
20 for that guy to land, even though he's the rich  
21 guy with the Mercedes and the airplane that  
22 you're riding in, you're going to be in trouble  
23 too. So we've got to look at what ---

24           The airspace above us is owned by all  
25 of us for all of us to be protected by all of

1 us and to be safe for all of us; not just  
2 folks -- I understand where you're coming from,  
3 but please try to see the bigger picture as we  
4 have.

5           MR. MAKEL: Just to give you some  
6 idea in Washington County, we have the  
7 Washington County Airport which is not that far  
8 down the road or down the flight path, whatever  
9 you want to say. So, I just want to make you  
10 aware there are other situations there.

11           Again, if I upset you I do apologize,  
12 but I guess when I hear some of these comments  
13 being made -- And again, I just -- I see some  
14 people and it just -- I think if you're going  
15 to do something, let somebody else -- If  
16 PennDOT wants to give us the money to pay for  
17 that inverse condemnation, fine. I just said,  
18 we have --

19           We just disbanded our police  
20 department in Union Township two years ago  
21 because we couldn't afford our police  
22 department any further. That was 60 percent of  
23 our budget. Now, if we disbanded our police  
24 department, it means we are not in that great  
25 of shape to be paying a hundred thousand

1 dollars for this situation.

2           REPRESENTATIVE PERRY: I guess what  
3 I'm saying is, as appalled as I might have been  
4 by some other testimony and as relevant as your  
5 testimony may be, you discredit yourself --

6           CHAIRMAN FREEMAN: Let's not belabor  
7 the point. There's one more question, Chairman  
8 Saylor.

9           REPRESENTATIVE SAYLOR: In Washington  
10 County there in Union Township, I assume that  
11 you had -- If a commercial developer or a  
12 residential developer comes in, and he or she  
13 wants to put a development in, commercial or  
14 residential, that you require them to pay for  
15 widening of highways. You require them to pay  
16 for anything that they have.

17           So what you're saying is, you expect  
18 the airport, these kind of airports to pay for  
19 whatever needs to be accommodating of the  
20 airport rather than anybody else does.

21           MR. MAKEL: As an attorney who  
22 represents 15 or 17 different municipal  
23 entities, the general theory in law, the  
24 general theory in doing municipal practice is  
25 that the developer pays their way. We don't

1 put that burden on the taxpayer for that  
2 because that's basically the cost of doing  
3 business. And you're right, that's how we look  
4 at it every place, in Washington and Green  
5 counties.

6           REPRESENTATIVE SAYLOR: Right. And  
7 the whole point of this is, this does not  
8 affect, as PennDOT had said earlier and the  
9 chairman -- the guy from the Aviation Council,  
10 this does not affect all the airports. This  
11 affects airports simply like the Baublitz  
12 Airport and others. York Airport, for  
13 instance, wouldn't be affected and a number of  
14 airports we have throughout the state.

15           I guess the thing that has brought  
16 about this whole issue has been, having been a  
17 developer in that field prior to being in the  
18 legislature, I know the cost I had to bear.  
19 You know, you have to bear costs if you're in  
20 business.

21           And many of these airports that we're  
22 talking about, specifically under this law, are  
23 basically the grass strips that are used by the  
24 owners in most cases, and the impact they're  
25 now having on everybody else. And many of



1 these airports would never have been allowed to  
2 be created had it not been for the fact they  
3 didn't know they were going to have to meet  
4 these requirements. If these individuals had  
5 known, township supervisors, borough councils,  
6 earlier, they probably would not have granted  
7 the ability to have these airplanes. So I'm  
8 assuming that's how the township feels.

9           MR. MAKEL: Yeah. And to give you an  
10 idea, before today's meeting I was at Donegal  
11 Township last night, which is the western part  
12 of Washington County, which is near  
13 Claysville--I don't know if you guys know where  
14 Claysville is--and we were talking about this  
15 issue because I was coming here today. There  
16 is a person I believe that owns a piece -- has  
17 a flight strip on a hill overlooking  
18 Claysville.

19           Now, technically, under the current  
20 law he could be considered to be a private  
21 airport for public use. Now, Donegal  
22 Township -- If this owner of this land strip  
23 decides to say, gee-whiz, I've seen Baublitz  
24 and Chanceford, now Donegal Township is faced  
25 with the dilemma of doing the same thing again.

1           So the impact in this situation is,  
2 anybody who puts in an airstrip or has an  
3 airstrip on their property can now force --  
4 possibly force this Act 164 upon the township.  
5 It's a concern for -- A lot of townships are  
6 worried about this right now.

7           CHAIRMAN FREEMAN: Gentlemen, we  
8 thank you for your testimony and for taking a  
9 long journey here today to testify before us.  
10 We appreciate that very much. For the record,  
11 I own a Chevy Malibu.

12           We're going to take a brief 10-minute  
13 break and reconvene at 12 noon.

14           (Short recess occurred.)

15           CHAIRMAN FREEMAN: I'll call up to  
16 the table our next testifier, that would be Mr.  
17 Bruce Eveler, Chanceford Aviation,  
18 Incorporated. Feel free to come up to the  
19 table.

20           MR. EVELER: I do have one other  
21 landowner and one of my partners along with me.

22           CHAIRMAN FREEMAN: We have your name  
23 for the record. We don't have your business  
24 partner.

25           MR. HEINDEL: Jeffrey Heindel.

1           CHAIRMAN FREEMAN: You gentlemen may  
2 begin your testimony at any time.

3           MR. EVELER: Good afternoon. I got  
4 to be the first one to say that. I didn't have  
5 copies of this to hand out because I was still  
6 working on it about 10 o'clock last night --

7           CHAIRMAN FREEMAN: That's okay.

8           MR. EVELER: -- figuring out what I  
9 wanted to say. I'm going to start out --  
10 Mostly I'm going to read this.

11           The proposed House Bill Number 2159  
12 is, in my opinion, an ill-conceived idea, which  
13 will affect the safety of the flying public at  
14 numerous Pennsylvania airports. To  
15 differentiate between the value of an  
16 individual's safety based solely on whether  
17 they use a privately- owned or public-owned  
18 airport is absurd, but it is truly shameful  
19 that the public officials proposing this bill  
20 have no concern for the safety of their  
21 constituents and others using privately-owned,  
22 public-used airports.

23           CHAIRMAN FREEMAN: Sir, just to  
24 interrupt you. I would like to clarify the  
25 record, all members of the legislation have

1 concern for the safety of their constituents.

2 I really take issue with that statement.

3 MR. EVELER: Okay.

4 CHAIRMAN FREEMAN: You're more than  
5 welcome to testify, but please don't cast  
6 aspersions upon any of the colleagues here who  
7 make a point of making their life by looking  
8 over their constituents. Please proceed.

9 MR. EVELER: When defining airports  
10 which require zoning the proposed House bill  
11 excludes privately-owned, public-used airports  
12 unless they have regularly-scheduled commercial  
13 flight operations. I didn't know of any  
14 privately-owned, public-use airports that have  
15 any scheduled service out. Now from listening,  
16 I understand that you intended for that to be  
17 charter service, that kind of thing. But when  
18 I read over that, I certainly did not get that  
19 meaning out of it.

20 My concern to ask you would be, when  
21 you're talking about privately -- or  
22 publicly-owned, public-use airports, how many  
23 of those meet that criteria as well? I don't  
24 believe -- Or I do believe that you're going to  
25 find there are several of them that don't.

1           The federal government has a  
2 preemptive claim on the airspace surrounding  
3 the airports. They've published their  
4 regulations in the Code of Federal Regulations  
5 Part 77 and they rely on the states to adopt  
6 and enforce these regulations. The states in  
7 turn rely on the local governments, which have  
8 the police authority to enforce these  
9 regulations. This proposal gives local  
10 governments the option to adopt or not adopt  
11 zoning.

12           As I see this, if a local government  
13 would choose not to adopt the zoning, it would  
14 open them up to federal suits as well as  
15 wrongful death and injury suits if anybody  
16 would be injured in the surrounding areas that  
17 are to be protected.

18           The requirement for the airport to  
19 pay the cost involved if the municipality is  
20 sued I feel is ridiculous. It would follow the  
21 same reasoning, at least the way I see it, that  
22 if a local municipality's police force went to  
23 stop a robbery, the policemen used excessive  
24 force, the township was sued. Then looking at  
25 it in this perspective, the convenience store

1 or the banker, whoever was being robbed, would  
2 be responsible for the cost to the township. I  
3 don't think that that's a very good way of  
4 going about things.

5           The Supreme Court of Pennsylvania has  
6 ruled that under current law municipalities  
7 must enact zoning to protect the flying public.  
8 This limits the growth of vegetation and  
9 prevents construction or placement of objects  
10 which are deemed hazardous. These areas around  
11 the airport are the roadways of the sky. The  
12 authors of this bill would not allow, I'm sure,  
13 someone to place barriers for any other  
14 obstruction in the way of a public highway  
15 where somebody would end up being injured. Why  
16 then are they proposing there should be no such  
17 limitations for someone in the flying public to  
18 protect aircraft?

19           The federal and state governments  
20 both have in place a system which requires  
21 anyone wanting to put, you know, erect a  
22 building or anything like that, or  
23 obstructions, that they file forms with the  
24 federal government and the state, and which are  
25 to be evaluated to determine whether they're

1 hazards.

2           If the township, indeed, does follow  
3 what the federal government and the state deems  
4 hazardous, to stop it and follows the ruling of  
5 the Supreme Court, I think that would very,  
6 very drastically reduce their ability; that  
7 they would be successfully sued. You're  
8 talking about -- When you're doing everything  
9 right, I don't think that somebody would have  
10 the ability to come in and successfully sue you  
11 at that point.

12           One other thing that I wanted to  
13 mention, Mr. Bupp, when he comes up, is going  
14 to talk to you about the zoning area, the model  
15 zoning. He's going to tell you, or at least he  
16 has in the past, that the model zone takes in  
17 hundreds and hundreds of acres and affects --  
18 There are hundreds of hundreds of people and  
19 affects thousands of acres of land. This is  
20 not the case.

21           We have already talked to Chanceford  
22 Township, as well as the Bureau of Aviation.  
23 If I may, I'm going to use the township's --  
24 There's an area right here that's kind of an  
25 oblong shape. The runway is right in

1 here (pointing). This is the whole proposed  
2 zoning. This area is all that's required that  
3 the township zone. That's all that -- And that  
4 meets everybody's stipulations. It satisfies  
5 everyone at that point. That area encompasses  
6 36 property owners, nine of which have enough  
7 land that the zoning could affect them.

8           When I first became involved with  
9 this and went to the township, they requested  
10 that I went (sic) to every one of those nine  
11 property owners. I must admit I went to eight  
12 of them because I already knew what Mr.  
13 Dockman's feelings were about the airport. Out  
14 of the other eight, there was not one person  
15 that said the zoning would affect them in an  
16 adverse way. They were in favor of the airport  
17 staying there, they wanted the airport there,  
18 and they had no problem with the township doing  
19 the zoning.

20           I'm kind of at a loss as to how we  
21 ended up being where we're at right now in such  
22 a confused mess because the area is not that  
23 large. The state Supreme Court already said  
24 yes, they should do the zoning. I know you're  
25 trying to change that. But the residents



1 around the area want the airport there. We're  
2 still battling the same thing. So that's  
3 basically it.

4           CHAIRMAN FREEMAN: Thank you for your  
5 testimony. Did you have some comments?

6           MR. HEINDEL: Yes, sir. Again, my  
7 name is Jeffrey L. Heindel. I want to make it  
8 clear that about four years ago I became one of  
9 the owners of Chanceford, what we know as  
10 Baublitz Airport. However, I'm not here in  
11 that capacity because Bruce will take care of  
12 that.

13           I'm indebted to Bruce as my  
14 colleague and friend to allow me to come  
15 because I'm not an easily offended person, but  
16 I'm going to use those words. I could be  
17 offended for not being asked to give testimony  
18 to this hearing since Mr. Dockman's map, as he  
19 gave to you in his evidence -- because I have  
20 nothing prepared.

21           I represent Heindel Family Farms. It  
22 is a private family trust that my father set up  
23 years ago--He's now deceased--that has a direct  
24 effect on 45 families, probably 200 people  
25 financially, most of them in this county, some

1 out of the county and a couple out of the  
2 state.

3           When Mr. Baublitz (sic) points out  
4 this area up here, the orange area, that is all  
5 our properties, and also we own about a  
6 thousand feet directly across from Muddy Creek  
7 Forks Road, which is the one approach area.  
8 When we came here in 1988--I moved here in  
9 1990--we knew up front that there was an  
10 airport there. We were soon told that in the  
11 area to--I'm going to point correctly to  
12 you--this side right here, this orange strip  
13 right here, we knew that we could never plant  
14 corn there because corn -- It was so close to  
15 the restricted area, it was too high.

16           Now, zoning in its general sense  
17 always causes a problem for whom it restricts.  
18 The aviation zoning of airspace restricts and  
19 it causes problems. But to be part of America  
20 is that our freedom requires responsibility.  
21 Rather than making a big deal about not being  
22 able to plant corn there, or anything else, we  
23 planted alfalfa, hay, soybeans, all acceptable.

24           This area that's restricted  
25 (pointing) doesn't affect that area because the

1 slope is so dramatic we can plant corn there.  
2 In fact, I think we could plant a fruit  
3 orchard, dwarf trees and not be affected at  
4 all. And we own all this ground, we own 2,000  
5 acres.

6 I'd like to go just a little bit  
7 anecdotal, and you may laugh at it, you may  
8 want to throw it out, but we own 2,000 acres  
9 here. Zoning restricts us in what we can do.  
10 There's a lot of things we would like to do as  
11 a business that we can't.

12 Yesterday I had to put a lot of heads  
13 together to deal with the zoning restriction  
14 because if we tried to do this thing, we would  
15 have been against zoning law that protected  
16 Clearview Elementary School next door to us.  
17 We put on our thinking caps and are able to  
18 carry out, submit to the township an  
19 alternative that will allow us to be within the  
20 zoning that exists and be a good neighbor, in  
21 this case, to the school district, and a  
22 law-biding citizen of this township.

23 I recently purchased a building in  
24 this township, 50,000 square feet. It was used  
25 to make cigar boxes, to process them. When I

1 brought to the township what we were going to  
2 do, they said, oh, you can't do processing  
3 there without going to zoning. It cost me  
4 about \$2,000 to get that approved. We improved  
5 that property and we're paying more taxes to  
6 this township because of that.

7           I do know that airport, of which I do  
8 pay bills, we're paying more taxes because of  
9 what we are doing there, and it does benefit  
10 little old ladies if the township so desires to  
11 give relief to little old ladies who struggle  
12 with their tax issues, whether it be property  
13 taxes, or whatever.

14           Anecdotally, if I were to come to  
15 this township today and say I have 2,000 acres,  
16 I'm affecting well over 200 people,  
17 45 families, we want -- We're not happy with  
18 your zoning because we have somebody that would  
19 buy a thousand acres of ours for 50,000 an acre  
20 to put houses in here, do I -- because that is  
21 the zoning that's in existence now.

22           If we're going to give a disgruntled  
23 person or people because they live next to an  
24 airport the right to sue an airport because  
25 they can't build something that they may have

1 never intended, but if the law allows them to  
2 say they were gonna, now they can sue to gain  
3 financial gain, why can't I do that?

4           Say, we could have made \$50 million  
5 selling this thousand acres for houses. We  
6 can't. I make less than \$300,000 a year. My  
7 calculations, it's going to be a hundred and  
8 some years till I can ever financially,  
9 economically recover what I lose because of one  
10 thing, zoning. You know what? I'm not totally  
11 happy with that, but you know what? I'm an  
12 American and the zoning laws that exist  
13 now--Not all are favorable to me, the airport  
14 zoning. I am a pilot--I'm glad they have them.

15           A friend of mine, he flew into  
16 Aberdeen Proving Ground's airspace and they had  
17 two jets take him right down. He was  
18 reprimanded, he was lost. But they're there  
19 for a good reason, because who knows who's in  
20 that airplane.

21           This airport is also used by Aberdeen  
22 regularly. I see their helicopters coming in  
23 here to make approaches. Those people are  
24 learning on our airport how to do night  
25 approaches and things to help protect our

1 country.

2           I believe this bill is very  
3 restrictive, very pointed, and it opens up an  
4 opportunity for a whole lot of litigation of  
5 what could have, but never would have been had  
6 this law not been put in. Because when I read  
7 the law, as a simple man, I see it basically as  
8 an opportunity for somebody who feels that the  
9 height restrictions prohibits them from doing  
10 what they said they were going to do, it gives  
11 them an opportunity to sue and totally destroy  
12 the aviation industry in all the private and  
13 public/private airports.

14           I also take somewhat of an issue with  
15 the fact that in the restriction, that it  
16 eliminated on a public/private airport we're  
17 going -- We sell aviation fuel. That's a  
18 commercial opportunity. We may get someone in  
19 to do flight training. That's a commercial  
20 entity.

21           Why was it put in that you had to  
22 have two regular-scheduled flights? I don't  
23 know if I'm using the right words, but that  
24 almost sounds like it was point zoning rather  
25 than really dealing with the issue, which has

1 already been I think very well testified by  
2 some of the people here.

3           So, I'm going to put on my other  
4 hat. As a family member, that's what we would  
5 have liked to have done, maybe. We're so much  
6 love in with agriculture and the farm, we lose  
7 all our money on it and try to make it  
8 elsewhere, because that's about what it is in  
9 agriculture.

10           I'll put my hat on as one of the  
11 owners over here. I believe that in the  
12 testimony that was given in favor of what we  
13 have done, it is a positive effect on this  
14 community. Are some people upset? I know of  
15 one, his family. I've never had anyone else  
16 come to be, I think as a business leader in  
17 this township, that has come to me or spread to  
18 me through rumor that they're really ticked off  
19 that I bought part of that airport, that we're  
20 doing what we're doing. You know what I hear?  
21 Man, it's good to see that because we love to  
22 see aviation.

23           Thank you, gentlemen. Thank you very  
24 much.

25           CHAIRMAN FREEMAN: Thank you for your

1 testimony. Any questions of the members?

2 Representative Moul.

3 REPRESENTATIVE MOUL: I seem to have  
4 a million of them today, don't I? How long is  
5 your strip?

6 MR. EVELER: It's licensed 2200 feet.  
7 With the overrun it's just shy of 2500.

8 REPRESENTATIVE MOUL: We had someone  
9 testify earlier about the little old lady  
10 that's going to bear a cost and how airports  
11 wouldn't be beneficial. Could Angel Flight  
12 land at your airport if it was absolutely  
13 necessary to pick up a medically-ill person?

14 MR. EVELER: Certainly.

15 REPRESENTATIVE MOUL: So that would  
16 also be another benefit to the community.

17 MR. EVELER: Yeah, we have -- We do  
18 have people come in -- Well, as Jeff said, we  
19 have -- The military does practice runs in  
20 there all the time. We've had people come in  
21 to use businesses in the community, the winery  
22 down here, the truck sales place up in Red  
23 Lion. So, we have people fly in to use  
24 businesses in the local area. We've had people  
25 fly in just to go over to the restaurant.



1           REPRESENTATIVE MOUL:  So, in a sense,  
2 they're using it for commercial purposes as  
3 well?

4           MR. EVELER:  Yes, sir.

5           REPRESENTATIVE MOUL:  Okay, thanks.  
6 That's all I have.

7           CHAIRMAN FREEMAN:  Chairman Saylor.

8           REPRESENTATIVE SAYLOR:  Jeff, first  
9 of all, you shouldn't be offended because you  
10 weren't invited to testify because that was the  
11 whole point of this hearing.  We could have  
12 had 20 more, 30 more on both sides of the issue  
13 testifying.  We wanted to make sure that  
14 everybody on both sides of this issue get to  
15 testify because I think it's important to hear  
16 Bruce's, or the ownership of the airplane's  
17 input into this thing, as well as the Aviation  
18 Council.  We talked about PennDOT.

19           So it was not to exclude anybody.  
20 There's a limited amount of time for any  
21 hearing, no matter where it's at or what issue  
22 we're covering.  I appreciate that.  You and I  
23 have been friends a long time.  This is not in  
24 any shape or form, you understand, about  
25 closing any airports in this state.  This

1 legislation is not about that.

2           What it is about is that changes have  
3 been made, and in some cases there have not  
4 been cooperation by certain agencies in my  
5 opinion, Department of Transportation, Aviation  
6 Department, to really work with municipalities  
7 to work out some of these issues.

8           I felt compelled to introduce this  
9 basically because, I'm hoping at some point in  
10 time we're able to work through this whole  
11 process and that it benefits. You've heard  
12 earlier from two previous areas of this state  
13 they're having problems, and there's more than  
14 just to be allowed to testify. There's a lot  
15 more problems.

16           So what we need to get to and the  
17 purpose of this hearing today is to come up  
18 with ideas on how to solve some of these  
19 problems in this bill. This is not a perfect  
20 bill. I would have never sat here and told you  
21 it was. I'm not pilot nor am I an expert on  
22 aviation. But what we do have is, we're having  
23 a developing problem across this state with  
24 this issue and how zoning takes place, whether  
25 it's spot zoning, it's this or it's that, and

1 also the economic impact.

2           To give you a perfect example, Mrs.  
3 Baublitz came to me and I helped her get state  
4 money for improvements at that airport. So  
5 it's not in any shape or form, as you know my  
6 history, that I want to close it, but it is a  
7 concern that I have for municipalities. What  
8 are the legal ramifications to municipalities  
9 if the courts rule that in the end there has to  
10 be the reverse condemnation process?

11           I think you lived here in Chanceford  
12 Township a long time, you're very familiar with  
13 the budget of Chanceford Township. You know  
14 what that would have if somebody sued and won  
15 that kind of a court case.

16           We need to figure out in Pennsylvania  
17 legally a way to protect township municipal  
18 governments. That is my goal, is to protect  
19 townships from being bankrupted. Not to close  
20 airports, but to protect financially the  
21 interest of the taxpayers as a whole, just so  
22 you understand. I knew you were an owner, I  
23 know there's other owners. As part of the  
24 airport I think there's four or five of you.

25           MR. EVELER: Five.

1           REPRESENTATIVE SAYLOR: Five. And I  
2 know I'm a friend with one of the owners. So,  
3 it just comes down to, I think that, we  
4 appreciate your testimony today and I'm glad  
5 you came in, as partner with Bruce. But again,  
6 the whole point of this is to get this issue  
7 resolved in Pennsylvania because this is going  
8 to continue to grow.

9           As you heard earlier, 80 percent of  
10 the airports in this state don't have this  
11 zoning. And this issue is going to continue to  
12 grow and there's going to be multiple lawsuits,  
13 and those lawsuits aren't being paid for by  
14 PennDOT Aviation. It's being paid for by the  
15 taxpayers.

16           My issue is to resolve for Chanceford  
17 Township, or any other township, Union  
18 Township, Washington County. We have six of  
19 these airports, six airports in York County, of  
20 which I think this legislation was intended to  
21 take in probably about three of them, to  
22 somehow work out an agreement that in the end  
23 it benefits all; not just those who have the  
24 airports, but those who are homeowners and the  
25 economic impact it will have on those.

1 MR. HEINDEL: In response to that, if  
2 I may.

3 REPRESENTATIVE SAYLOR: Sure.

4 MR. HEINDEL: I look at Baltimore  
5 Washington Airport, you can look at Washington  
6 Reagan International, I mean, the concerns were  
7 it's economically affecting the areas.  
8 Baltimore is growing despite the airport. In  
9 fact, it's growing because of the airport.  
10 Washington, that airport is very necessary.  
11 You can take anyplace where an airport has been  
12 placed, the economic value is not what is  
13 challenged.

14 I would urge you as the committee to  
15 consider making clear that this -- if it needs  
16 to be, that this legislation supports that we  
17 take in what the FAA has already set up--  
18 They're the most experienced throughout the  
19 country--and to make sure that the existing  
20 bill clarifies that all airports and the  
21 restrictive area around there must comply with  
22 the FAA ruling. I think it will help a lot.

23 And then, again, I want to reiterate  
24 because I know this has come to me, what is  
25 presented is not the facts in this case. We

1 don't need -- It's not going to affect all that  
2 area because the airport is too small to affect  
3 that whole area. The area that Mr. Eveler has  
4 shown you is the area, and a lot of that ground  
5 is my ground. Our family's ground; not mine.  
6 I'll take that back.

7           REPRESENTATIVE SAYLOR: I think the  
8 thing that has brought this to the forefront  
9 has been your airport and others. But also the  
10 problem that has happened over the years has  
11 been, it used to be the FAA had different  
12 classifications for different airports.

13           When they combined all the airports  
14 into one, that's when you developed this  
15 problem, because now you have one zoning  
16 requirement for all airports. That happened a  
17 number of years ago. So that's where this  
18 problem is coming from. It's not about --

19           Like I said, I've got to reiterate,  
20 it's not about closing any airport in  
21 Pennsylvania. There's no desire on my part,  
22 nor do I think anybody else's desire in the  
23 legislature, or anywhere else, to close  
24 airports, or townships to even close them.

25           It's the concern and the financial

1 impact it will have on the townships. I think  
2 that's the biggest argument townships and  
3 boroughs have is, they're concerned about what  
4 does it do if another court case comes down and  
5 they have to -- And we don't know. We don't  
6 know, but we should be prepared. We shouldn't  
7 wait until a township or municipality goes  
8 bankrupt because of the reverse condemnation  
9 and say, oh well, we've got to do something in  
10 the legislature about it. We should try and  
11 work now to solve that problem before it  
12 happens because we see --

13           Jeff, you and I have talked about  
14 this, about lawsuits so many times. Everybody  
15 today sues everybody for everything, and it's  
16 just one of those things. It's going to  
17 happen. My concern has been --

18           Chanceford Township is my district,  
19 but whether it's Union Township in Washington  
20 County, or wherever, or Washington County, York  
21 County, which has one of these airports in it,  
22 at some point there's going to be an economic  
23 impact possibly that's negative. I don't think  
24 your airport takes any property values down. I  
25 don't think York Airport takes any, nor Capitol

1 City or Harrisburg International. I think  
2 they're assets to the community.

3           But, how we govern those and how  
4 those financially impact local governments is a  
5 concern I have. Because most of the airports,  
6 such as yours, are in rural areas; very small  
7 townships, rural townships, and in many cases  
8 very small financial budgets, and they would be  
9 greatly, greatly hurt if we can't figure out a  
10 way with PennDOT Aviation to get this resolved  
11 in the future, just so you understand where  
12 we're coming from; where I'm coming from,  
13 anyway.

14           CHAIRMAN FREEMAN: Gentlemen, we  
15 thank you for your testimony and your  
16 attendance here today.

17           MR. HEINDEL: Thank you.

18           MR. EVELER: Thank you.

19           CHAIRMAN FREEMAN: Our next testifier  
20 is Holly Fishel, Director of Policy and  
21 Research for the Pennsylvania State Association  
22 of Township Supervisors. Holly, good to see  
23 you. Welcome. You're free to commence at any  
24 time.

25           MS. FISHEL: Good morning, Chairman



1 Freeman, and members of the committee, Chairman  
2 Saylor. I should say good afternoon. My name  
3 is Holly Fishel, and I'm the Director of  
4 Research and Policy Development for the  
5 Pennsylvania State Association of Township  
6 Supervisors. Thank you for the opportunity to  
7 appear here today on behalf of the  
8 1,455 townships in Pennsylvania that are  
9 represented by the association.

10           Townships comprise about 95 percent  
11 of the Commonwealth's land area and are home to  
12 more than 5.4 million Pennsylvanians, nearly  
13 42 percent of all state residents. These  
14 townships are very diverse, ranging from rural,  
15 agricultural communities with fewer than  
16 200 residents, to more urban populated  
17 communities with populations approaching  
18 70,000.

19           I would like to thank Chairman Saylor  
20 for introducing House Bill 2159 to address and  
21 correct a problem that has been created by a  
22 recent Pennsylvania Supreme Court ruling  
23 concerning airport zoning. In the 2007 case of  
24 Chanceford Aviation versus Chanceford Township,  
25 the court held that the township was mandated

1 to enact an airport zoning ordinance in  
2 compliance with the state's Airport Zoning Act.

3           Since 1984, state and federal  
4 regulations have required municipalities that  
5 have a public airport within their borders to  
6 adopt zoning ordinances mitigating the  
7 existence of potential hazards on properties  
8 near or around an airport. Such risks include  
9 the location of vegetation such as trees and  
10 restricting the height of structures. The  
11 municipality may divide these areas into zones  
12 and regulate the use of the land and height of  
13 structures within the zoned areas.

14           When originally enacted, there was  
15 uncertainty surrounding the intent of the  
16 Airport Zoning Act, including whether many of  
17 the provisions were mandatory or optional.

18           However, the Chanceford decision has  
19 erased any such doubts. Municipalities now  
20 have the burden to enact ordinances that  
21 protect small, private airfields at the  
22 taxpayers' expense. Neighboring municipalities  
23 that are deemed to be within the flight path of  
24 an airport are also required to enact zoning  
25 ordinances under the provisions of the current

1 act.

2           We believe the court unreasonably  
3 applied the current definition of an airport  
4 under the statute to cover any facility that  
5 could conceivably be used to land winged  
6 aircraft. In fact, the airport in question,  
7 the Chanceford case, is no more than a grass  
8 landing strip.

9           House Bill 2159 would restore  
10 reasonableness to the process by amending the  
11 definition of an airport by requiring that  
12 commercial flight operations be conducted at  
13 least two days per week before a municipality  
14 would be required to adopt an airport zoning  
15 ordinance. In this way the law would protect  
16 those airports that are truly commercial and  
17 not simply private airstrips.

18           We believe that the Chanceford case  
19 poses an additional unforeseen and problematic  
20 consequence that may not be immediately evident  
21 when reading the decision or reviewing the  
22 statute. When a municipality adopts an airport  
23 zoning ordinance, there is the possibility that  
24 the ordinance would limit a neighbor's property  
25 rights by restricting what, if any, development

1 may occur on the neighbor's property.

2           In the Chanceford case, the landing  
3 strip in question abuts the neighbor's  
4 property, and as such, the neighbor is  
5 prohibited from using the land for anything but  
6 a grass field. Such a situation could  
7 constitute a taking on the part of the  
8 municipality because the property value in the  
9 affected land next to the airport would be  
10 diminished. This situation creates the  
11 possibility that a takings suit will be filed  
12 by the neighboring property owners.

13           While Chanceford Township's ordinance  
14 largely placed the burden of safety and costs  
15 onto the airport operator, the court ruling  
16 placed a substantial share of that burden on  
17 both the township and the neighboring property  
18 owners.

19           House Bill 2159 would address this  
20 issue by requiring that any airport owner who  
21 benefits from the mandated action of the  
22 municipality be required to reimburse the  
23 municipality for its costs, including court  
24 costs and damages from a takings claim.

25           In addition, the ruling created an

1 enforcement burden on municipalities to ensure  
2 that the neighboring properties are not  
3 creating a hazard for the airport, instead of  
4 requiring the airport to cease operation if a  
5 hazard were to occur.

6           While the AZA as currently written  
7 does imply that airport zoning may be completed  
8 without a comprehensive zoning ordinance, House  
9 Bill 2159 would further strengthen this  
10 language and make it very clear that the  
11 AZA authorizes spot zoning in this limited  
12 situation. Generally, Section 605 of the  
13 Municipalities Planning Code prohibits spot  
14 zoning.

15           House Bill 2159 would reduce the  
16 financial burden on municipalities by allowing  
17 them to legally comply with the act without the  
18 expense of zoning the entire municipality, for  
19 those areas that don't currently have zoning in  
20 place.

21           In closing, Chanceford Township's  
22 experiences with this issue are not unique.  
23 Already there are reports from throughout the  
24 state, as we've heard today, that other  
25 municipalities are facing similar difficulties

1 with private landing strips as a result of the  
2 decision. House Bill 2159 is needed to provide  
3 reasonableness to the court decision by  
4 exempting small, private airports, allowing  
5 municipalities to legally spot zone for  
6 airports, and providing for the recovery of  
7 legal and other costs associated with the  
8 implementation and enforcement of the AZA.

9           Thank you for the opportunity to  
10 testify today. I will attempt to answer any  
11 questions that you may have.

12           CHAIRMAN FREEMAN: Thank you very  
13 much for your testimony. Are there any  
14 questions from the members? Chairman Saylor.

15           REPRESENTATIVE SAYLOR: Holly, thank  
16 you for coming today. From what I get then,  
17 you also see a benefit this bill has. There's  
18 been questions I assume throughout Pennsylvania  
19 of all municipalities as to when you do the  
20 airport hazard zoning, whether other landowners  
21 may want the township or require the township  
22 to do complete zoning. So my legislation then  
23 would give permission of the township to just  
24 do spot zoning for the purpose of airports as  
25 well, only airports?

1 MS. FISHEL: That's our read of your  
2 legislation, that it could give that clear  
3 authority. Because there is some implication  
4 in the current law, but it's not absolutely  
5 clear. Generally, the courts have ruled pretty  
6 strongly that you can't do spot zoning unless  
7 it's really clear.

8 REPRESENTATIVE SAYLOR: So my  
9 legislation would overrule the MPC?

10 MS. FISHEL: For this specific  
11 instance.

12 CHAIRMAN FREEMAN: I should note too  
13 our committee dealt with one of my pieces of  
14 legislation, House Bill 1281, the Appalachian  
15 Trail Protection Act, and permits, in essence,  
16 spot zoning to protect the trail itself. So  
17 there's some established precedent for doing  
18 that in certain circumstances, as this would  
19 be.

20 REPRESENTATIVE SAYLOR: Thank you,  
21 Holly.

22 MS. FISHEL: Thank you.

23 CHAIRMAN FREEMAN: Representative  
24 Moul.

25 REPRESENTATIVE MOUL: Again, I'm

1 sorry.

2           CHAIRMAN FREEMAN: That's okay.

3 We're going to have to make you a member of the  
4 committee.

5           REPRESENTATIVE MOUL: I did this in  
6 Transportation last week. I guess they weren't  
7 happy I was there either.

8           CHAIRMAN FREEMAN: You're always  
9 welcome.

10          REPRESENTATIVE MOUL: Thank you.  
11 Part of your testimony you read here, by  
12 amending the definition of an airport by  
13 requiring that commercial flight operations be  
14 conducted at least two days per week before a  
15 municipality would be required to adopt an  
16 airport zoning ordinance. By that statement is  
17 PSATS stating that unless there's two  
18 commercial flights in and out every week, it  
19 would be okay for the township to permit a  
20 300-foot cell tower, let's say, to be built  
21 right off the end of a runway on neighboring  
22 ground?

23          MS. FISHEL: I wouldn't go that far.

24          REPRESENTATIVE MOUL: Well, how far  
25 would you go?



1 MS. FISHEL: Basically, to say that  
2 that would be -- by putting that exemption into  
3 place for those smaller types of airports, it  
4 would relieve the township of the burden to go  
5 the full route and put the full-blown Airport  
6 Hazard Zoning Act in place.

7 REPRESENTATIVE MOUL: So the zoning  
8 would be in effect for some airports but not  
9 others, is what you're saying?

10 MS. FISHEL: They would be required  
11 to do it for certain airports.

12 REPRESENTATIVE MOUL: Some airports  
13 and then not others.

14 MS. FISHEL: Um-hm.

15 REPRESENTATIVE MOUL: So by not  
16 adopting this mandatory zoning to protect, and  
17 I'll say it again, glide slope into an airport,  
18 it would then be okay with PSATS to have a  
19 structure, call it whatever you want, built  
20 right on the end of a runway on neighboring  
21 ground?

22 MS. FISHEL: I wouldn't go that far.

23 CHAIRMAN FREEMAN: I think probably,  
24 if I could speak for PSATS, their opinion tends  
25 to be that they would allow that up to the

1 municipality to determine their own zoning  
2 requirements here to whatever standards they  
3 wish to adopt.

4 MS. FISHEL: Yes.

5 REPRESENTATIVE MOUL: But I think the  
6 point I'm trying to make is, in almost every  
7 township you're not going to find -- Even their  
8 solicitor is not going to be an expert on  
9 aviation. I would be deathly afraid to see  
10 something to be allowed to be built that would  
11 cause the life of a pilot and/or passengers  
12 because this wasn't in place. That's my  
13 concern.

14 The other thing, just very quickly,  
15 on the takings claim, wouldn't this kind of  
16 open the door for people -- I think we heard  
17 one other gentleman say earlier, well, I wasn't  
18 ever planning on building anything there beside  
19 the runway, but, hey, who knows what was in my  
20 head. I'm going to go ahead and sue now  
21 because, maybe I can't build those townhouses  
22 that I wasn't ever planning to build before  
23 beside the runway. Doesn't that open a  
24 Pandora's box for lawsuits in the reverse all  
25 over the state?

1 MS. FISHEL: By putting those  
2 provisions in the bill into effect.

3 REPRESENTATIVE MOUL: Could allow  
4 that.

5 REPRESENTATIVE SAYLOR: To intercept  
6 here, this does not -- Nobody is looking -- You  
7 already had -- The problem comes down to, it's  
8 already zoned commercial or residential. If  
9 you own a farm currently, let's say next to the  
10 airport, you can't sue because you never had  
11 the right to build anything there at all.

12 But, if it's already zoned  
13 residential/commercial and up until now before  
14 you did the airport hazard zoning, you now have  
15 to restrict those uses, now you changed the  
16 value. You've reversed the whole zoning  
17 process, I guess we'd say, for those properties  
18 around the airport. That's where we're getting  
19 the damages. Not if you already own a farm  
20 around it, you would not have the right to  
21 build condos on it because you're zoned  
22 agricultural.

23 REPRESENTATIVE MOUL: Let's just say  
24 it's land that's owned. Maybe it's not even  
25 farmland, that no one ever gave a thought to.

1 Now I think you could possibly have a whole  
2 bunch of landowners saying, hey, the law says I  
3 can now sue the airport owner because I might  
4 have had the opportunity to do X, Y or Z on my  
5 land that I was never planning to do to begin  
6 with. But what the heck, there's already three  
7 million frivolous lawsuits in the state, what's  
8 another one? I think it opens up a door.

9 I'm not a hundred percent against  
10 trying to protect people here and just looking  
11 out for aviation, but I think we have to take  
12 these things into account and do some refining.

13 MR. BUPP: If you want to sock me  
14 with that question, Mr. Moul, I'll be prepared  
15 to address that.

16 CHAIRMAN FREEMAN: Any other  
17 questions?

18 (No response.)

19 CHAIRMAN FREEMAN: If not, we thank  
20 you for your testimony.

21 MS. FISHEL: Thank you.

22 CHAIRMAN FREEMAN: Our final  
23 testifier is Chanceford Township Solicitor  
24 Timothy, is it Bupp?

25 MR. BUPP: It's Bupp.

1 CHAIRMAN FREEMAN: Bupp. Welcome,  
2 Attorney, you're welcome to come up.

3 MR. BUPP: Thank you. May I stand,  
4 Mr. Chairman?

5 CHAIRMAN FREEMAN: Sure, if you'd  
6 like to.

7 MR. BUPP: Hopefully, my voice will  
8 be loud enough that everybody can hear me.  
9 That's sort of why I moved to the front. I was  
10 raised on a dairy farm not far from here in  
11 Chanceford Township, so I'm used to speaking  
12 loud so the cows can hear me. I have a better  
13 audience today.

14 Thank you very much to all the  
15 committee for coming down to Chanceford  
16 Township today. I wish you were here to see  
17 our beautiful scenery or to get some of Jeff  
18 Heindel's excellent ice cream over at the Brown  
19 Cow.

20 CHAIRMAN FREEMAN: You didn't mention  
21 you had ice cream.

22 MR. HEINDEL: I could persuade the  
23 committee a little.

24 MR. BUPP: Unfortunately, you're not.  
25 You're here because we've got a problem. As a

1 township, we're between a rock and a hard  
2 place.

3           Now, I'm prepared to offer testimony  
4 and I wrote something down for you so that you  
5 have it. But I don't know that I can add too  
6 much that hasn't been said by people who spoke  
7 very eloquently on both sides. So I'll try and  
8 keep my comments brief so that you can ask me  
9 questions as you think appropriate.

10           A rock and a hard place, that's where  
11 we are. We have been sued successfully by our  
12 airport. There's a mandate from the Supreme  
13 Court for us to adopt airport hazard zoning in  
14 compliance with Act 164. We've got to do it by  
15 the end of May, so we're already working  
16 through this process. But we're dealing  
17 firsthand and for the first time in the state  
18 with the issues that we've been talking about  
19 today, how broad should our ordinance be? What  
20 effect is it going to have on us? How many  
21 times are we going to be sued?

22           We are going forward as best we can,  
23 but we very much support House Bill 2159.  
24 We're grateful to Representative Saylor for  
25 introducing it on our behalf because we feel

1 that it's an attempt, not against aviation, but  
2 to place some reasonable limits on when there  
3 should be a mandate to a municipality to adopt  
4 an ordinance and when it should only be  
5 advisory.

6           You've seen Chanceford Township.  
7 You've seen our map, you've seen -- You've  
8 heard some testimony about the dimensions of  
9 Chanceford Airport, Baublitz Airport. Here's  
10 our problem. The runway is only a hundred feet  
11 wide. We are mandated by the act to control an  
12 area that's 250 feet wide.

13           The airport doesn't own the property  
14 on either side of it, so under the existing  
15 mandate of the act we have to adopt an  
16 ordinance that's going to say to the owners of  
17 that property on either side, you can't do  
18 anything with your property. It's not a  
19 question of whether or not they can build a  
20 ranch house there or make some use of it. Two  
21 hundred five feet wide, you can't do anything.  
22 That's a taking.

23           That's what we're faced with right  
24 now. We're faced with having to compensate the  
25 neighboring landowners for an act that's

1 basically going to be for the benefit of the  
2 owners of the airport; not for the residents of  
3 the township, but that's who's going to be  
4 paying for it, the residents of the township.

5           You've seen my bullet points in my  
6 handout. Let me stress something because I  
7 can't say it enough. The mandate of Act 164 to  
8 us is not about safety. This is not about  
9 safety. This is about who's going to pay for  
10 the safety. The airport is not allowed to  
11 operate unsafely. If it is, PennDOT Aviation  
12 would tell them you've got to shut down. If a  
13 300-foot cell tower was proposed for an area  
14 that's within the flight zone, or somewhere,  
15 then PennDOT Aviation would say to the airport,  
16 you're going to need to address that or you  
17 will have to shut down.

18           The airport is not without weapons to  
19 do so, right? They have operated since the  
20 '70's. They've got an easement over the fly  
21 zones above the property owners for the  
22 environs, right? They could take a private  
23 action against that. They've successfully done  
24 that in the past when some of the landowners  
25 have created things that they felt were



1 obstacles.

2           But, once we adopt an ordinance, then  
3 it's our problem. Then it's the other 450 --  
4 or 4,500 residents of the township that have to  
5 pay for those acts; not the airport.

6           The provisions of Mr. Saylor's bill  
7 incorporates something that if we are faced  
8 with extensive lawsuits and we have to pay  
9 takings claims, we can turn to the airport for  
10 those fees. I think that's reasonable. It's  
11 the airport owner that benefits from the  
12 operation of the airport. If the airport were  
13 instead used as a salvage yard or a junkyard,  
14 and there were stringent requirements on their  
15 operation, they'd have to pay for it; not the  
16 township.

17           We're glad you came to Chanceford  
18 Township. I hope that you don't have to go to  
19 every other township that's going to be faced  
20 with this problem. You heard some stories  
21 today from people in Washington Township that I  
22 was not aware of. We're only the first, we  
23 won't be the last. There's going to be a lot  
24 of takings claims.

25           This is potentially a funnel for an

1 immense amount of litigation. If I was that  
2 kind of attorney, I could go to airports all  
3 over the state and say, hey, listen, you've got  
4 an opportunity here to make your municipality  
5 pay to let you grow. That's a problem. It's  
6 not a benefit to the municipality for that.

7           Let me make it clear, lastly, that  
8 the township's goal is not to close the  
9 airport. You heard Stan say that. We'll  
10 reiterate it. I have fond memories of the  
11 airport. When I was a little boy Mr.  
12 Baublitz--Mrs. Baublitz was here early--Mr.  
13 Baublitz took our family up on a flight in the  
14 airplane. I remember how tightly my mom  
15 squeezed my hand. I thought my fingers were  
16 going to pop off. We don't want to close the  
17 airport. We want to co-exist with it.

18           When it forces us through a lawsuit  
19 to spend six figures, and that's the potential  
20 cost, on takings claims to allow them to  
21 continue to operate and expand their  
22 operations, that's a problem. I don't see the  
23 proposed bill as pro-aviation or anti-aviation.  
24 I don't see it in that text. This is to place  
25 reasonable limits on when municipalities are

1 forced to adopt aviation standards.

2           We could adopt some kind of zoning  
3 that would favor the airport. We'd like to do  
4 it in such a way that it doesn't break our  
5 budget, all right, and force us to sell this  
6 building. That's what we're faced with now  
7 because we're under a court mandate. We've got  
8 to adopt an ordinance within a couple months.

9           When we adopt it, and we are probably  
10 going to adopt it, I anticipate that the  
11 airport will sue us, and I anticipate that the  
12 landowner will sue us. We're forced to adopt  
13 something that we don't want to do and that,  
14 quite truthfully, I don't think we're prepared  
15 to administer, or equipped to administer.

16           Mr. Moul, you said you don't want a  
17 local solicitor in charge of making decisions  
18 about aviation heights and where things should  
19 happen, and I totally agree with you. This has  
20 been thrust upon us, we've had no choice.  
21 There are experts, and I wish we had more  
22 support from our experts as to what we're going  
23 to do, but the advice we seem to get from  
24 PennDOT Aviation is, shall means shall, and you  
25 shall adopt an ordinance. So that's where we

1 are today.

2           We look to you for your help, right,  
3 because we are up against the wall. We are  
4 going to have to adopt an ordinance. We've got  
5 no choice under our court order. When we do,  
6 we're going to be sued. We're the first, we  
7 won't be the last.

8           I know you're anxious to go and see  
9 this exciting airport that's been the result of  
10 all this litigation. I hope the bus makes it  
11 up to the road. We checked the road yesterday,  
12 and I think it's going to be passable.

13           MAN IN AUDIENCE: It's a good road.

14           MR. BUPP: Any questions?

15           CHAIRMAN FREEMAN: I'll open it to  
16 any questions of the members here. Mr. Moul.

17           REPRESENTATIVE MOUL: I'll go ahead  
18 and throw that question to you that you were  
19 going to answer earlier. How are you going to  
20 stop all the frivolous lawsuits of, well, hey,  
21 I own land that sits next to the airport, let's  
22 go get our attorney and see if we can make some  
23 money. How are you going to address that?

24           MR. BUPP: We're stuck with that  
25 under the current litigation without the

1 proposed amendment. Under the current act,  
2 that's what we've got to do. We have to adopt  
3 an ordinance that's going to place limits on  
4 what the neighbors can do.

5           Is there an end to those lawsuits,  
6 there's not. We're going to get sued. That's  
7 what we've got to do now. We're hoping Stan's  
8 bill will take that away, right? Stan's bill  
9 says that we don't have to adopt an ordinance,  
10 then it's the munici -- not the municipality's  
11 responsibility, but the airport's  
12 responsibility to keep its flight paths clear.  
13 And in my opinion they have legal recourse.

14           REPRESENTATIVE MOUL: So, if someone  
15 did want to put a cell tower up, let's say a  
16 quarter of a mile away from the airport on  
17 their private land, they were going to lease it  
18 to a tower company and the tower company  
19 checked it out and said, oh, you know  
20 something, if I put it here, that's going to  
21 get into that glide path that the FAA has  
22 protected --

23           MR. BUPP: Right.

24           REPRESENTATIVE MOUL: -- for that  
25 airport; now, does that open the door for that

1 landowner to say, hey, I could have put a cell  
2 tower up there but now I can't? So the FAA  
3 says I can't and the township had to adopt an  
4 ordinance, let's go sue the airport owner.  
5 Does that open that door?

6 MR. BUPP: Well, once we adopt the  
7 ordinance, then they'll be suing us. But prior  
8 to us adopting an ordinance -- Let's say it  
9 happened today, right -- has actually happened  
10 today. If you do down and get some of Jeff  
11 Heindel's ice cream, you're going to drive  
12 right through Brogue and there's a cell tower  
13 down there. The cell tower was put up, what,  
14 2000, six, seven years ago. Any time -- I wish  
15 I was an expert on that. We have experts  
16 sitting back here in the back.

17 Any time somebody builds something  
18 that's going to interfere with those flight  
19 zones, it's too tall, right, they've got to  
20 notify the FAA; they've got to notify PennDOT  
21 Aviation. Then those bodies make a  
22 determination and say if this is going to  
23 interfere with flight patterns, right? Then  
24 there's a tension that's got to be resolved.

25 In my opinion it's up to the airport

1 at that point to say, I've got an easement from  
2 my existing operations. You can't build  
3 something there because you're interfering with  
4 what I'm doing. That's for them to sort out.

5           Once we adopt an ordinance, well,  
6 they'll just both sue us. Now it's clearly a  
7 legislative taking. We've said, you can't  
8 build what you want to on your property.

9           I wish it were as simple as merely  
10 cell towers, right? I wish that that was all  
11 that was going to cause problems for the  
12 township.

13           Under the ordinance that we have to  
14 adopt, the neighboring properties' restrictions  
15 start down here (pointing). There's even  
16 certain kinds of agricultural that -- I mean, I  
17 don't know. I don't think that they would be  
18 allowed. Maybe fruit trees could be grown,  
19 right, but probably not. If somebody wants to  
20 grow fruit trees, we'll probably get sued.

21           And if you know anything about  
22 ACRE--I'm not an expert on ACRE--but ACRE is  
23 legislation that's suppose to prevent  
24 ordinances that interfere with agricultural  
25 operations. Well, we're about to adopt one.

1 What do we do? We've got no choice, we've got  
2 a court mandate.

3           This bill would remedy that. We  
4 would not have to adopt this ordinance, right?

5           REPRESENTATIVE MOUL: But it would  
6 also put all the burden of the costs for all of  
7 those frivolous lawsuits right on the property  
8 owner that owns the airport --

9           MR. BUPP: It would.

10          REPRESENTATIVE MOUL: -- in a sense,  
11 putting airports out of business.

12          MR. BUPP: I agree with what you're  
13 saying. I agree with what you're saying. If  
14 something like that happens, there's going to  
15 be a tension between the airport and that  
16 landowner. They're going to have to resolve it  
17 somehow, right?

18          That's the way it is now, they can't  
19 operate unsafely now if something happens. If  
20 they build hangars their airport, they have to  
21 go to FAA. And the FAA explains to them the  
22 heights are acceptable or the heights are too  
23 high, you've got to put a light on it. That's  
24 between them and the FAA, and the same would be  
25 true of the neighboring landowners, but now



1 we're going to be thrust in between there.

2           REPRESENTATIVE MOUL: But isn't it at  
3 that instance when the FAA says no, that's  
4 getting into -- that's encroaching our  
5 regulations, doesn't that put all the burden  
6 then on the FAA? It's now an FAA regulation  
7 that they're busting, not necessarily a  
8 township, so wouldn't they sue Uncle Sam?

9           MR. BUPP: I hope so. But once we  
10 have an ordinance that says, you know, you can  
11 only build this high on this area, we're an  
12 easier target, aren't we?

13           REPRESENTATIVE MOUL: Does your  
14 township have a restriction on how high you can  
15 build things in this township?

16           MR. BUPP: We do. We do. There are  
17 limitations for residences, for example,  
18 40 feet, right? Of course, things like silos,  
19 cell towers, can't be built higher, right? So  
20 there are some restrictions there already.

21           REPRESENTATIVE MOUL: So you're  
22 already restricting landowners to what they can  
23 build and what they can't.

24           MR. BUPP: That's correct. There are  
25 uses like cell towers that are allowed in our

1 commercial zone -- used to be allowed in our  
2 commercial zone. Now they're allowed in  
3 certain areas, right? And some of these areas  
4 would be affected if we adopted the entire  
5 model ordinance.

6           Now, you heard Bruce say about the  
7 things that I might say. We are not planning  
8 to adopt the entire ordinance. We are only  
9 going to try and curtail it to here (pointing).  
10 We made the study because we wanted to know how  
11 much of Chanceford Township was going to be  
12 affected by adopting this ordinance. It was  
13 more than we thought.

14           We're going to limit the restrictions  
15 to here (pointing). Of course, that doesn't  
16 help you if you own ground here (pointing).  
17 And if the restrictions that we're placing are  
18 so strict that you can't even plant potatoes,  
19 it's a conundrum. I wish there was an easy way  
20 out.

21           We've struggled with one for years,  
22 right? And we've had a lot of discussions with  
23 PennDOT Aviation, what can we do here? Is  
24 there some middle ground? We're feeling our  
25 way through as well as we can.

1           I think Stan's proposed legislation  
2 is as close to a solution to this problem as  
3 you're going to find for Chanceford Township  
4 and for the next 150 municipalities that are  
5 behind me. I don't think -- It's not going to  
6 shut down the airport if we don't adopt an  
7 ordinance. They operate now.

8           I think -- This is my opinion; again,  
9 I'm not an expert. I think that their true  
10 operation should be as a private airport.  
11 That's what they were in 1979 when we adopted  
12 zoning. That's why they were grandfathered in  
13 as a pre-existing nonconformity, right?

14           But sometime in the '80's they  
15 decided they were going to be a public airport.  
16 And PennDOT Aviation said, although you don't  
17 meet the requirements, we're not going to shut  
18 you down. We don't want to shut them down  
19 either, but we don't want to sell this building  
20 so we can pay the landowners for what we have  
21 to do.

22           REPRESENTATIVE MOUL: That's all.

23           CHAIRMAN FREEMAN: Allow me, Mr.  
24 Bupp, to just play devil's advocate for a  
25 second.

1 MR. BUPP: Please do.

2 CHAIRMAN FREEMAN: Under current  
3 zoning ordinances across the state, it's  
4 permissible, in fact, even mandated, and it's  
5 been upheld in the courts to the best of my  
6 knowledge, that you can require certain buffer  
7 requirements in a zoning ordinance for certain  
8 uses.

9 For instance, if a landfill is to be  
10 located in a community, the municipality can  
11 incorporate into their zoning ordinance  
12 buffering requirements so that the operation of  
13 the landfill cannot extend within a certain  
14 number of feet to a public road or a  
15 public (sic) line.

16 MR. BUPP: Or to property lines,  
17 right.

18 CHAIRMAN FREEMAN: Or property lines,  
19 correct.

20 MR. BUPP: Correct.

21 CHAIRMAN FREEMAN: How does this  
22 differ in your legal opinion in terms of the  
23 current attempt to apply the Act 164 provisions  
24 from that kind of concept of buffer?

25 MR. BUPP: Let's talk about the

1 property use that you're talking about, let's  
2 say a salvage yard, right? There's got to be a  
3 buffer area around that nuisance operation,  
4 right? We'll say it's 50 feet with some  
5 greenage to provide a buffer. Well, that takes  
6 place on the property owner's property --

7           CHAIRMAN FREEMAN: Okay.

8           MR. BUPP: -- right? Here the buffer  
9 area extends from the 100-foot-wide airport  
10 property over all the neighbors' properties.  
11 Henry Tyson's still here. He said -- He was  
12 one of our supervisors at the time. He put it  
13 pretty well, I thought. He said, any other  
14 nuisance ordinance -- any other nuisance use  
15 the landowner has to hide from the rest of the  
16 municipality.

17           CHAIRMAN FREEMAN: Not the other way  
18 around.

19           MR. BUPP: Here it's the other way  
20 around. The landowner has to pay extra for a  
21 salvage yard to make sure that that doesn't  
22 have a negative impact on the rest of the  
23 property.

24           CHAIRMAN FREEMAN: And that's what  
25 raises the potential takings.

1 MR. BUPP: Exactly.

2 CHAIRMAN FREEMAN: Thank you for that  
3 clarification. Are there any other questions  
4 from members?

5 (No response.)

6 CHAIRMAN FREEMAN: If not, we thank  
7 you for your testimony.

8 MR. BUPP: Thank you.

9 MR. GROMLOWICZ: Could I make one  
10 comment for the end?

11 CHAIRMAN FREEMAN: Sure.

12 MR. BUPP: The Department has --

13 CHAIRMAN FREEMAN: Could you please  
14 reintroduce yourself?

15 MR. GROMLOWICZ: Jerry Gromlowicz  
16 from PennDOT's Bureau of Aviation. The  
17 Department has been accused several times of  
18 not working with municipalities in creating or  
19 helping them to form some type of zoning.  
20 That's not true.

21 We work with every municipality.  
22 I've worked with Mr. Bupp, Chanceford Township.  
23 We had multiple meetings, one of which was in  
24 Representative Saylor's office, and we thought  
25 we were that close to getting something that

1 would work in this municipality and then, for  
2 lack of a better word, all hell broke loose on  
3 the thing.

4           We are not mandating that this whole  
5 ordinance, that the model be made into an  
6 ordinance; that it can be tailored for the size  
7 and type of airport that it will impact in the  
8 community around it.

9           There have been several  
10 misstatements. We talked about cell towers.  
11 That cell tower company will never get a  
12 frequency because the FAA has to determine that  
13 it's not a hazard before they allowed the FCC  
14 to allocate a frequency for that cell tower.

15           There are mitigation factors such as  
16 lighting, markings, similar things that even  
17 though it penetrates this imaginary surface,  
18 those things can be mitigated. But there are  
19 certain areas, and again I stress, the most  
20 critical phases of flights, which are departure  
21 and arrival, that we're concerned about, and  
22 the areas adjacent to the runway are most  
23 critical. That's where the accidents are going  
24 to happen.

25           You can even have something next to a

1 runway if it were frangible; if, when an  
2 aircraft hits it, it breaks. So there are  
3 other means to do this without crafting this  
4 entire ordinance and make it more complicated  
5 than it really is.

6           Anyone who wants to write  
7 something -- We are not putting that burden on  
8 the township. It's a state law and it's a  
9 federal law that they, before they erect  
10 something, they send in the forms and a  
11 determination will be made by the FAA, whether  
12 it's a hazard or not a hazard. The state will  
13 either give an objection or not objection.  
14 They go to the township and say, I want a  
15 permit, here's the two forms, no problem from  
16 the FAA or the state, they can hand them that  
17 permit.

18           Even if the FAA determines that it's  
19 a hazard or we object to it, they can go to the  
20 municipality. It's a municipality decision.  
21 They're taking some liability on themselves if  
22 they approve it, because now they've approved  
23 something they've become joint with that person  
24 erecting something. That's all I wanted to  
25 say.



1           CHAIRMAN FREEMAN: Thank you. In the  
2 interest of time we have to conclude the  
3 hearing. There is a bus tour available for  
4 those who will be taking it to the site of the  
5 airport.

6           I just wanted to acknowledge before  
7 we conclude this hearing too that we do have in  
8 our presence Mr. Bill Dunn, who is Vice  
9 President of the Aircraft Owners and Pilots  
10 Association, local chapter. And we apologize  
11 that, unfortunately, we do not have time to  
12 take his verbal testimony, but he did pass out  
13 written testimony which will be entered into  
14 the record and become part of our official  
15 record. So we thank you for your presence here  
16 today.

17           Let me close out with a couple quick  
18 comments, and then I'll turn it over to  
19 Chairman Saylor for the final word. First and  
20 foremost, I want to thank all those who  
21 testified before our committee today, for  
22 taking time out to have their voice be heard  
23 and to give their point of view. We appreciate  
24 that. That process is very important to us as  
25 legislators as we fashion legislation to deal

1 with issues, so we appreciate that.

2           My thanks also to the members who  
3 were in attendance today, both those who are  
4 members of the committee and those who have an  
5 interest in this issue and come from  
6 neighboring districts. And my thanks to the  
7 staff also for their presence and their work in  
8 setting up this hearing, and to our  
9 stenographer who is always able to keep pace  
10 with me no matter how fast I speak, so I  
11 appreciate that.

12           This is an important issue to this  
13 community and to many of you, of course, in  
14 Pennsylvania. We anticipate hearing more about  
15 it as we proceed with our work as a community.  
16 So again, my thanks to all those who testified  
17 and who gave their point of view.

18           With that, I'd like to turn the final  
19 word over to Chairman Stan Saylor.

20           REPRESENTATIVE SAYLOR: The Chairman  
21 said it very well, in what we're trying to  
22 achieve is to work through this legislation.  
23 Hopefully, the testimony today will help us  
24 refine this legislation into a better piece of  
25 legislation to assist municipalities, and

1 airports as well.

2           So, I look forward to working on this  
3 piece of legislation and refining it, and we'll  
4 look forward to working with both sides on the  
5 issue to try and come to some kind of agreement  
6 that will benefit the taxpayers of  
7 Pennsylvania. Thank you.

8           CHAIRMAN FREEMAN: Do you want to  
9 announce the tour?

10           REPRESENTATIVE SAYLOR: Anybody who  
11 wishes to go on a tour -- We're not going to  
12 debate this issue. But anybody who would like  
13 to go and see the airport, we do have a bus  
14 outside. We're going to go and come right  
15 back. It's not going to be a long type of  
16 situation. So, if you'd like to go see the  
17 airport, please feel free to join us on the  
18 bus.

19           CHAIRMAN FREEMAN: Thank you. This  
20 concludes this meeting of the Local Government  
21 Committee. We stand adjourned.

22           (At or about one o'clock p.m., the  
23 hearing conclude.)

24                           \* \* \* \*

25

## 1                   C E R T I F I C A T E

2

3                   I, Karen J. Meister, Reporter, Notary  
4 Public, duly commissioned and qualified in and  
5 for the County of York, Commonwealth of  
6 Pennsylvania, hereby certify that the foregoing  
7 is a true and accurate transcript of my  
8 stenotype notes taken by me and subsequently  
9 reduced to computer printout under my  
10 supervision, and that this copy is a correct  
11 record of the same.

12                  This certification does not apply to  
13 any reproduction of the same by any means  
14 unless under my direct control and/or  
15 supervision.

16                  Dated this 7th day of April, 2008.

17

18

19

20                                 Karen J. Meister - Reporter  
                                      Notary Public

21 My commission  
   expires 10/19/10

22

23

24

25