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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF SANTA CLARA

11 CHRISTINE DECKER,  
12 Plaintiff,  
13 vs.

Case No.: 19CV360497  
**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

14 COUNTY OF SANTA CLARA, a public  
entity, JOE SIMITIAN, CINDY CHAVEZ,  
15 MIKE WASSERMAN, DAVE CORTESE, and  
SUSAN ELLENBERG, and DOES 1 through  
16 50,  
17 Defendants.

18 **INTRODUCTION**

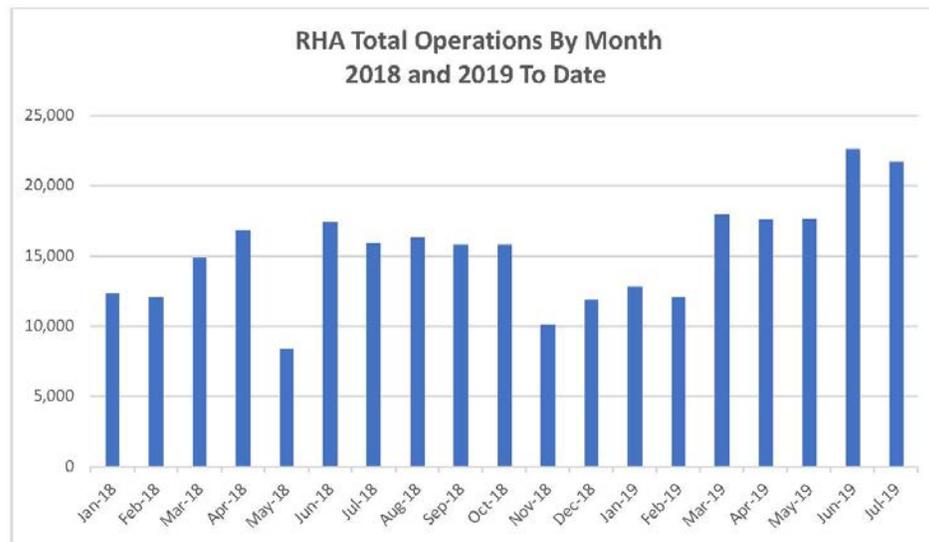
19 Reid-Hillview Airport (“RHA”) is a critical public resource. In 2018 alone, it hosted  
20 thousands of emergency flights to combat nearby fires. It also operates as a reliever for Norman  
21 Y. Mineta San Jose International Airport (“San Jose International”). It secures emergency relief  
22 for the County of Santa Clara (“County”) and the Bay Area. Yet the Board of Supervisors  
23 (“Board”) wants to shut RHA down.

24 This decision is not only misguided—it puts the public safety at risk. Legally, the Board  
25 cannot close the airport. However, in a move calculated to force its closure, the Board has  
26 refused grants under the Federal Airport Improvement Program (“AIP”). These grants would  
27 fund the basic maintenance needs of RHA and save the taxpayers money. In addition to refusing  
28 the federal funding, the Board has failed to make necessary repairs to bring the airport into





1 San Martin airport. Recent operations at RHA have surpassed 2018 activity levels:<sup>2</sup>



11 13. In 1961, the County purchased the private airport that is now Reid-Hillview  
12 airport. Since then, the County has entered binding agreements with the Federal Aviation  
13 Administration (the “FAA”) regarding the operation of Reid-Hillview airport. In accepting  
14 funding through Airport Improvement Program grants (“FAA grants”), the County agreed to a  
15 series of thirty-nine (39) grant assurances.

16 14. From 1961 to 2011, all FAA grants contained terms, or “assurances,” to which the  
17 County agreed. Among these was the County’s obligation to continue operation of Reid-  
18 Hillview airport *in perpetuity* per FAA Airport Compliance Manual Order 5190.6B, section 22.3.  
19 These assurances further obligate the County to maintain and operate its airport facilities safely  
20 and efficiently, and in accordance with safety standards, including, but not limited to, Assurance  
21 11, *Pavement Preventive Maintenance*; and Assurance 19, *Operation and Maintenance*.

22 15. The County must also follow FAA safety standards in maintaining operations at  
23 Reid-Hillview. The FAA Runway Safety Program establishes policies and delegates authority  
24 for ensuring compliance with FAA safety regulations. The Runway Safety Program further  
25 defines incidents as a threat to public safety. “Runway incursions,” generally defined, are the  
26 incorrect presence of an aircraft, vehicle, or person on a protected area of the airport designated

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<sup>2</sup> *Ibid.*

1 for landing or takeoff of aircraft. A “pilot deviation” occurs when a pilot takes any action that  
2 violates Federal Aviation Regulations. A “vehicle or pedestrian deviation” occurs when a  
3 pedestrian or vehicle enters any portion of the airport without authorization from air traffic  
4 control.

5 16. Recently, the FAA has raised several safety concerns with the County, discussed  
6 below. See FAA letter to Joe Simitian, President of the Board of Supervisors, Santa Clara  
7 County, dated October 18, 2019.

8 17. The Santa Clara County Airports Commission “fully endorses the letter from the  
9 FAA to the Board of Supervisors dated October 18, 2019.” See Santa Clara County Airports  
10 Commission letter to Joe Simitian, President of the Board of Supervisors, Santa Clara County,  
11 dated December 4, 2019.

12 **GENERAL ALLEGATIONS**

13 18. Despite the assurances given to the FAA, the Board has taken steps to close Reid-  
14 Hillview airport, including hiring consultants who specialize in areas of land value, facilities, and  
15 non-aviation commercial development to develop a Business Plan Update for the airport. The  
16 purpose of the Business Plan Update was to promote the non-aviation use of Reid-Hillview  
17 airport property. See County of Santa Clara, Roads and Airports Department, Letter to Housing,  
18 Land, Use, Environment, and Transportation Committee, dated September 17, 2018.

19 19. At the Board of Supervisors meeting on May 9, 2017, County staff presented a  
20 report that recommended development of an updated business plan for county airports. The  
21 Business Plan Update was finalized on or about May 9, 2018.

22 20. The Business Plan Update noted that while the County was eligible to apply for  
23 FAA grants, it had not accepted any since 2011. The decision not to accept additional grants has  
24 allowed Reid-Hillview airport to decline.

25 21. In May, 2018, the County General Fund loaned approximately \$3 million  
26 taxpayer dollars to the Airport Enterprise Fund (“AEF”) to pay for paving projects at the Reid-  
27 Hillview and San Martin airports.

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1           22.     However, to date, the paving work on taxi-ways at Reid-Hillview does not satisfy  
2 FAA standards. During paving, instead of moving the aircraft, the workers paved around the  
3 aircraft:



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16           23.     As another example, the repainted lettering for “no vehicles” was misspelled as  
17 “no vehicles:”



1           24.     On December 4, 2018, the Board of Supervisors voted to stop accepting new FAA  
2 grants for Reid-Hillview airport, to investigate possible alternative uses of Reid-Hillview airport  
3 after 2031, to consolidate the County’s aviation uses to San Martin Airport, and to develop a plan  
4 to implement improvements necessary at San Martin airport.

5           25.     The December 4, 2018 vote demonstrated the County’s plans to close Reid-  
6 Hillview Airport in 2031. If the County does not apply for and accept FAA grants, then Reid-  
7 Hillview airport will continue to lose funding and fall into disrepair.

8           26.     Given that the County has refused to accept new federal grants, going forward, for  
9 maintenance and operation of Reid-Hillview airport, the County General Fund must now loan  
10 funds to the AEF. The County’s General Fund, which receives property taxes, supports basic  
11 services and programs in the County, including public safety, parks and recreation, community  
12 development, and more.

13           27.     Regarding the County’s plans to investigate alternative uses for Reid-Hillview  
14 airport after 2031, the County has not requested a release from its obligations to the FAA under  
15 the grant agreements.

16           28.     Concerning the decision to consolidate the County’s aviation uses at San Martin  
17 airport, the County will need to make substantial improvements to that airport if it intends the  
18 airport to serve the same functions as RHA.

19           29.     Per the FAA, Reid-Hillview airport has several uncorrected problems related to  
20 Airport signage and markings. Runway destination signs are non-standard, and they are located  
21 in non-standard locations. The FAA raised concerns that: “The presence of non-standard  
22 signage, and the poor condition of the airfield signage and marking at RHV increases the risk of  
23 the loss of situation awareness for pilots and vehicle drivers.” See FAA letter to Joe Simitian,  
24 President of the Board of Supervisors, Santa Clara County, dated October 18, 2019.

25           30.     The uncorrected safety problems have decreased public safety. There has been an  
26 increase in the number of runway incursions at Reid-Hillview airport involving vehicles,  
27 pedestrians, and pilots. In 2019, at Reid-Hillview airport there have been at least three (3)  
28 vehicle/pedestrian and four (4) pilot deviations from FAA safety standards. (*Id.*)

1           31.     The County has not maintained taxi-way markings in violation of safety  
2 obligations. On the Zulu taxi-way at Reid-Hillview airport, rather than install the required taxi-  
3 way lights, the County only installed reflectors. Pilots traveling on the taxi-way at night cannot  
4 see the taxi-way unless the aircraft lighting is on. Proper lights should be installed in order to  
5 comply with FAA standards:



16           32.     On May 21, 2019, the County’s Board of Supervisors allocated \$400,000 of  
17 taxpayer funds for consultant services to study alternative land uses for the airport. The County  
18 has allocated \$400,000 towards a land use plan for the site of Reid-Hillview Airport, despite the  
19 County’s obligation arising out of its acceptance of the FAA grants to maintain the property for  
20 airport activities *in perpetuity* per FAA manual 5190.6B, section 22.3.

21           33.     Plaintiff is informed and believes that the \$400,000 allocated to seeking  
22 alternative land use for the site at Reid-Hillview will be transferred from the General Fund’s  
23 Contingency Reserve to the Facilities and Fleet Department. Citing its own neglect and  
24 mismanagement of Reid-Hillview airport, the County is now expending taxpayer monies to  
25 investigate alternative land uses for the airport to further the County’s plan to close Reid-  
26 Hillview, rather than correct conditions at the airport.

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1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Illegal Expenditure of Taxpayer Funds**

4 **(Against All Defendants Under Cal. Code Civ. Proc., § 526a)**

5 34. Plaintiff incorporates by reference the allegations set forth in paragraphs 1  
6 through 33 of this Complaint.

7 35. Plaintiff has been assessed and found liable to pay taxes such as property, income  
8 and other taxes in Santa Clara County where she resides. She also pays taxes to the State of  
9 California and United States of America, in the last year.

10 36. Plaintiff brings this cause as a citizen-taxpayer action under California Code of  
11 Civil Procedure section 526a.

12 37. Defendants' expenditure of public funds, including, but not limited to, \$400,000  
13 to study alternate land uses for Reid-Hillview airport, as challenged herein, furthers an unlawful  
14 objective – closure of Reid-Hillview in violation of the County's legal obligation to maintain  
15 Reid-Hillview in perpetuity. The County's expenditure of taxpayer money to implement,  
16 enforce, or otherwise carry out the illegal policies and practices complained herein constitutes  
17 illegal expenditure of public funds within the meaning of Code of Civil Procedure section 526a.

18 38. Plaintiff, as a state and county taxpayer, has an interest in enjoining the unlawful  
19 expenditure of tax funds. Pursuant to California Civil Procedure Code section 526a and this  
20 Court's equitable power, Plaintiff seeks declaratory and injunctive relief to prevent continued  
21 harm to the public and to protect Plaintiff and the public from Defendants' continued spending to  
22 study land uses that are prohibited by the FAA grant agreements, as alleged herein.

23 39. There is an actual controversy between Plaintiff and Defendants concerning their  
24 respective rights and duties, in that Plaintiff contends that Defendants have unlawfully  
25 administered and implemented public funds, and have failed to satisfy their duty to act, as  
26 alleged herein, whereas Defendants contend in all respects to the contrary. Plaintiff seeks a  
27 judicial declaration of the rights and duties of the respective parties with respect to the instant  
28 matter.



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5. For such other and further relief as the Court may deem just and proper.

DATED: December 19, 2019

McMANIS FAULKNER

  
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JAMES McMANIS  
TYLER ATKINSON  
MAYA YOUNES

Attorneys for Plaintiff, CHRISTINE DECKER