

FAA NEPA - Evidence of Fraud

Dear Hillsboro City Council,

As mentioned in our appeal narrative, Sky Harbour's CATEX document includes a number of responses that are inaccurate and misleading. We have included the two most glaring examples below from page A-13:

5-2.b(7) Noise

	YES	NO
Will the project result in an increase in aircraft operations, nighttime operations, or change aircraft fleet mix? This project would not increase aircraft operations, nighttime operations, or change the aircraft fleet mix at the airport.	☐	☒
Has a noise analysis been conducted, including but not limited to generated noise contours, a specific point analysis, area equivalent method analysis, or other screening method. If yes, provide that documentation. No noise analysis has been prepared for this proposed action because no change to aircraft fleet mix, number of operations, or flight paths are proposed.	☐	☒

It is a well-known fact that Sky Harbour's project would, by any measure, result in an increase in the number of aircraft operations *and* a change to the aircraft fleet mix. The applicant responses above are so blatantly and obviously false that their inclusion in this NEPA application could constitute fraud. Considering that these answers were submitted to the FAA in a certified document, this could be a federal crime.

This scheme worked to the benefit of the applicant, and to the detriment of the public. Instead of requiring a full environmental assessment, the FAA instead issued a waiver, based on false information. The waiver was then used by the applicant to support repeated false claims that the project would have no impacts.

The NEPA application was signed by two Port of Portland employees, one of which certified the document as Airport Sponsor, which may not be delegated to a consultant.

The other misleading responses can be found on pages A-12 through A-17 in the full CATEX document, which is included in “Attachment E - Appellants Applicant Testimony” in the City Council packet for Tuesday’s appeal hearing.

By withholding the full CATEX document from the public, the applicant was able to use the isolated decision page to great benefit: to get their project approved without an environmental study. The full CATEX document was released to the public one day after the Planning Commission’s Notice of Decision was mailed. The timing of this release is highly suspicious and could indicate consciousness of guilt.

If multiple parties were involved in and aware of the deception, this conduct could meet the definition of a criminal conspiracy to commit fraud. We understand that these are serious allegations, and are calling for a full investigation to get to the truth.

The Hillsboro Community Development Code 12.01.130(A) requires that all “development of land or structures within the City limits of Hillsboro shall comply with the Hillsboro Comprehensive Plan, the Hillsboro Municipal Code, and applicable regional, State, Federal and local laws”.

Considering the value of the false statements, and the withholding of the document in which the false statements were made, we believe that state and federal laws may have been violated.

Allowing a land-use applicant to benefit from fraudulent conduct would seriously undermine the integrity of the Hillsboro land use development review process.

Thank you for your consideration,

Sincerely,

Sarah Richmond

Brett Hamilton

Valerie Pratt

18 U.S. Code § 1001 - Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

<https://www.law.cornell.edu/uscode/text/18/1001>