

Those With Part 16 Complaints, Please Stand Up

But before you take action, know the standing requirements for filing a Part 16 Complaint with the FAA

If you are considering filing a Part 16 Complaint, the first question you should ask is: Can I satisfy the strict standing requirements? The purpose of this article is to educate the average airport tenant, user or sponsor on the standing requirements for filing a Part 16 Complaint with the Federal Aviation Administration (FAA).

What is Standing?

Standing is "[a] party's right to make a legal claim or seek judicial enforcement of a duty or right." 1442 Black's Law Dictionary, 8th Ed. Simply stated, a party seeking redress before a court or tribunal must demonstrate that it has been harmed before it will be allowed to proceed. The requirements for standing vary by jurisdiction. The FAA, like other courts, requires that parties meet its standing requirements before initiating and pursuing a Part 16 action.

What are the Requirements for Standing?

The standing requirements for initiating and

pursuing a Part 16 Action are set forth in 14 C.F.R. §16.21 and 16.23. 14 C.F.R. §16.21 sets forth the requirement that the aggrieved party must first initiate and engage in good faith efforts to resolve the disputed matter informally with the individual or entities responsible for the non-compliance. 14 C.F.R. §16.23 requires that the party filing the complaint be "directly and substantially affected by any alleged noncompliance." The complaining party must specifically claim that it engaged in pre-complaint resolution efforts and that it is directly and substantially affected by the non-compliance in order to demonstrate standing.

What if you don't meet the Standing Requirements?

If you file a Part 16 Complaint with the FAA without meeting the requirements, your complaint may be dismissed with prejudice. 14 C.F.R. §16.25 states that: "Within 20 days after the receipt of the complaint, the Director will dismiss a complaint, or any claim made in a complaint, with prejudice if . . . (c) The complainant lacks standing to file a complaint under §16.3 and 16.23." The fact

that the dismissal is with prejudice means you may be precluded from re-filing your Part 16 Complaint or even precluded from filing future Part 16 Complaints. Therefore, unless you are sure you meet the standing requirements; do not file a Part 16 Complaint. You may, however, be able to seek relief by filing a Complaint under the rules outlined in 14 C.F.R. Part 13.



The full text of this article is available online at www.aviationpros.com.

ABOUT THE AUTHORS

Paul A. Lange
Founder/Leader
Paul A. Lange LLC

Lange founded and leads the law offices of Paul A. Lange LLC with offices in Conn. and NY. The firm practices nationwide and internationally in various aviation-related legal matters including airport development, financing, regulatory enforcement matters and disputes.



Alison L. McKay
Attorney
Paul A. Lange LLC

McKay focuses her practice primarily on employment, litigation and insurance. She recently litigated the successful defense in U.S. District Court of an airport fixed-base operator from Rehabilitation Act claims.

