January 25, 1996

Mr. John R. Clark
Quality Assurance Mgr.
Stevens Aviation, Inc.
Jefferson County Airport
10656 W. 120th Avenue
Broomfield, Colorado 80021

Dear Mr. Clark:

By letter dated May 10, 1995, and in subsequent discussions with the FAA Denver Flight Standards District Office (FSDO), you have raised certain questions regarding the interpretation of Sections 145.49 and 145.53 of the Federal Aviation Regulations (FAR).

Following your most recent discussions with personnel at the Denver FSDO concerning the matter, at your request, your letter was forwarded to this office on January 12, 1996, for a response.

In your letter you have questioned what the terms "have" and "appropriate" mean in the context of their usage in FAR 145.49. Further, you raise a similar question regarding use of the term "available" as it is found in FAR 145.53.

The specific context of your inquiry relates to the question of whether it would be permissible under these sections for six different Stevens Aviation, Inc., domestic repair facilities to share tools and equipment within its corporation, or whether each separate location must have its own tools and equipment.

None of the three terms referenced in your inquiry are defined in FAR Parts 1 or 145. In this circumstance, we see no reason why they should not be given their ordinary dictionary meanings in the context in which they are used. In Webster's New World Dictionary, Third College Edition, they are defined as follows:

> Have: to hold in the hand or in control; own; possess.
> Appropriate: adjective - right for the purpose; suitable; fit; proper.
> Available: that can be got, had, or reached; handy; accessible.

In responding to your inquiry, we believe that another factual circumstance is relevant. We are advised by our Flight Standards Division that Stevens Aviation has elected to have each of its six referenced domestic repair stations certificated under Part 145 independently of the others. Under these facts, it follows that each repair station must meet the certification and operational standards of Part 145 independent of the others. This requirement is not affected

by the fact that they are all owned by the same parent corporation, or that two or more of them may otherwise be co-located on the same airport.

Based on the foregoing discussion, it is our conclusion that, apart from the limited exceptions provided for in FAR 145.49 and Appendix A, each applicant must have on its premises and possess, own, or be in control of the equipment and materials to perform any job function suitable, fit, or proper "to the rating and class specified in Section 145.47 for the rating he seeks." While this section speaks of "an applicant," we note that the requirements remain as continuing requirements with respect to certificate holders as well.

This interpretation is further supported by the provisions of FAR 145.47, which states in paragraph (b) that:

> "The equipment and materials required by this part must be of such type that the work for which they are being used can be done competently and efficiently. . . . The equipment and materials required for the various ratings must be located on the premises, and under the full control of the station, unless they are used for a function that the repair station is authorized to obtain by contract."

With respect to the provisions of FAR 145.53 relating to the requirement for "special technical data, equipment, or facilities," we interpret the use of the word "available" to mean that they must be handy or accessible at the certificate holder's facility. This provision is not meant to diminish, rather is to be applied consistent with and in the same context as the requirement to "have" (possess, own, be in control of), as found in FARs 145.47 and 145.49.

It is possible for an applicant/certificate holder to satisfy the requirements of the cited FARs through the use of leased tools or equipment, as long as the basic requirement of ongoing control and possession is met. We do not interpret this as being present where the equipment is merely being passed between certificate holders on a temporary or intermittent loan basis.

I hope that the foregoing will be of assistance to you.

Very truly yours,

LELAND S. EDWARDS,

Attorney