U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

JUN 2 2 2017

Mr. Gil Aguilar
Forza Business Strategies, Inc.
3158 Emerson Street
Palo Alto, CA 94306

RE: Request for Federal Aviation Administration Legal Interpretation Concerning sUAS Operations Adjacent to Private Heliport

Dear Mr. Aguilar:

This letter responds to your February 1, 2017 letter requesting clarification of 14 C.F.R. § 107.43, "Operation in the vicinity of airports."

You present a scenario in which there are two adjacent properties owned by different persons. One has a state-permitted private-use heliport which is used 40 times per month. The other property is a vacant lot where construction has begun on a permitted building. Both properties are in Class G airspace to 700 feet above ground level (AGL). Under your scenario, on the latter parcel with a building under construction, an FAA-certificated remote pilot operates a small unmanned aircraft system (sUAS) in accordance with Part 107 to obtain imagery of the construction process. You state that at all times, the remote pilot operates the sUAS over that parcel at or below 200 feet AGL. Prior to conducting sUAS operations, the remote pilot contacts the heliport owner to advise of the operation, but the owner "denies" the request to operate.

In response to your question about whether the heliport owner has the right to "deny flight operations" conducted under Part 107 at the neighboring parcel, while airport owners or operators have the ability to manage operations on the surface of the airport, airport owners or operators may not regulate the use of airspace above and near the airport.[1] In your scenario, the private heliport owner would not be able to prohibit sUAS operations above or near the heliport.

In your scenario, the sUAS remote pilot would have to comply with Part 107, including § 107.43, "Operation in the vicinity of airports," which states that "[n]o person may operate a small unmanned aircraft in a manner that interferes with operations and traffic patterns at any airport, heliport, or seaplane base." Also, under § 107.37, the remote pilot would be required to yield the right of way to all aircraft and airborne vehicles, including helicopters using the private heliport. The remote pilot would also have to operate the sUAS so that it is not operated so close to another aircraft as to create a collision hazard.

[1] Airport owners or operators having off-airport land use or zoning authority may be able to regulate ground-based hazards to aviation in the vicinity of the airport.

Part 107 operating rules apply at all times and not only when an aircraft operates on or in the vicinity of a specific airport. In an effort to safely integrate sUAS and manned aircraft at an airport, airport operators may recommend certain areas where sUAS operate, in order to avoid conflicts with manned aircraft. Remote pilots should adhere to those operational recommendations and discontinue operations if the potential for interference arises. When operational necessity requires the remote pilot to operate at or near an airport in uncontrolled airspace, the remote pilot must operate the sUAS in such a manner that it does not interfere with operations and traffic patterns at any airport, heliport, or seaplane base. Therefore, the remote pilot should operate the sUAS in such a way that the manned aircraft pilot does not need to alter his or her flight path in operations that include flight in the traffic pattern, on visual approach or departure, or on a published instrument approach or on instrument departure, in order to avoid a potential collision.

This response was prepared by Jonathan Cross, Senior Attorney for Airport Certification, Regulations Division, and coordinated with the FAA's UAS Integration Office and the General Aviation and Commercial Division of the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-8013.

Sincerely,



Lorelei Peter
Assistant Chief Counsel
for Regulations, AGC-200

Gil Aguilar
Forza Business Strategies, Inc. dba Forza RPV
3158 Emerson Street
Palo Alto, CA 94306
February 1, 2017

Mark W. Bury
Deputy Chief Counsel
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591

Dear Mark W. Bury:

I would like to request further clarification of 14 CFR Part 107.43, **Operation in the vicinity of airports**, which states: "No person may operate a small unmanned aircraft in a manner that interferes with operations and traffic patterns at any airport, heliport, or seaplane base."

The context of my questions below relates to the intent of wording with respect to "...interferes...", "...operations..." and "...traffic patterns..." in relation to heliports.

Scenario: In this example, assume that there are two adjacent properties owned by different parties. On Property 1 is a state-permitted private use helipad which is used approximately 40 times per month. On Property 2, is a vacant lot where construction is beginning on a permitted building. Both properties exist in Class G airspace to 700 feet AGL.

Let us assume I am properly certificated under 14 CFR Part 107 as a Remote Pilot in Command with a Small UAS rating. I have been hired to conduct commercial sUAS operations to provide imagery of the construction process on Property 2 by the owner of that property, once per week. The estimated sUAS flight duration is five (5) minutes and all flight activity will remain within the boundaries of Property 2 and will not exceed 200 feet AGL. Prior to conducting these sUAS operations, to ensure flight related safety with the adjacent private use helipad, I contact the owner of the private use helipad and propose a communication procedure so that conflict with manned aircraft using the helipad is mitigated and avoided; however, the owner of the private use helipad indicates that they are "denying" my request to conduct flight operations over Property 2 as they are unable to "determine when they will need the helipad" at Property 1.

Question 1: What basis does the owner of Property 1 have to deny flight operations at Property 2?

Question 2: If there are <u>no</u> flight activities at or inbound or outbound to/from Property 1's helipad, can an sUAS Operation within Property 2 be considered "interfering" with "operations" or "traffic patterns" of the heliport on Property 1? If yes, under what conditions is "interfering" taking place?

Question 3: Since in this scenario, 14 CFR 107 allows for sUAS operations within Class G airspace without ATC authorization, what specifically must a 14 CFR Part 107 Remote Pilot provide to the owner of the helipad at Property 1? Must the 14 CFR 107 Remote Pilot have authorization from the adjacent helipad owner or only provide notification or is no notification or authorization required?

Thank you for assisting me in developing a better understanding in this situation. This situation routinely comes up for which I currently will defer and not conduct flight activities. Should you need calcification of this request, please do not hesitate to contact me at (909) 762-3580 or email: gil@forzarpv.com

Sincerely,



Gil Aguilar
Vice President