Private Airport Risk Management

By Jeff Rhodes

While private airports may represent the ultimate American freedom for aviation minded people, not all private airports are the same. A private airport may be privately owned land operated by a single individual or family for recreation or for a business purpose. It may be one of the many "airport communities" which have sprung up in areas with large pilot populations. Resort areas may have small airports or helipads on or adjacent to the resort property for use by the resort staff or guests. What liability concerns are there (or should there be) for owners and operators of these "non-public" airports? As is often the case, the risk management methods for dealing with liability exposure associated with private airport facilities are varied depending on the type of operation.

Private Owned - Public Use Airports

Public use private airports usually differ from public municipal airports by way of their ownership arrangement. Public use private airports are owned in the private sector, rather than by a city, county or other government entity. Otherwise, they are ordinary airports. Many have commercial fixed base operators (FBOs) operating on the field. Fuel is often sold and hangars and tie-downs may be available for rent. In many cases, public use private airports operate flight schools and maintenance facilities. By definition, these airports and their facilities are open to the general public. Transient aircraft may land there without explicit permission to do so.

From a risk management standpoint, public use private airports are the same as any other aviation business. The owners of these facilities have a duty, under tort law, to protect the public at the highest reasonable degree of care. The airport owners should carry liability insurance coverage to protect themselves from a claim of bodily injury or property damage arising from the public's use of the premises and due to the negligence of the airport owner. This is premises liability coverage. Additionally, like any other FBO, the airport owner should consider purchasing products liability coverage and/or hangarkeepers coverage if the owner engages in selling products, performing work, or taking aircraft into his or her care. These are commercial aviation liability coverages. The limits of coverage needed and premiums are based on the size of the operation, the number of units sold or the amount of work performed.

Private Use Airports

Private (non-public use) airports are designed primarily for the operations of the owner. Like any private property, the public has limited access to the private airport. Some sort of permission is usually required prior to aircraft operations at private airports. This permission may be explicit, or may be implied because a landowner knows that a pilot is using the private airport and has allowed that use to continue.

Private use airports are all different from the standpoint of their ownership, their intended use, and the level of activity. For that reason, the risk management considerations are also different.

Private Recreational Airstrips
These airports usually house the owner's airplane and often adjoins the owner's residence. Activity is low with the airport accommodating just the owner's recreational flying and maybe a few guests.

Private Working Airstrips
Working airstrips often accommodate the owner's business. Agricultural (crop dusting) airstrips are a good example. I would also include business or industrial helipads, hospital helipads, and resort airstrips. These landing sites are often busy when supporting the business of the owner. In many cases, the activity may be hazardous to members of the unwary public.

Residential Airparks
Residential airparks or fly-in communities are developments surrounding a jointly-owned airport. The activity level can be fairly high, depending on the density of the airpark community. Aircraft are operated on both private property and community owned property. Often public roads double as aircraft taxiways. The airport facilities are accessible to homeowners and guests and transient aircraft.

Private Airport
Risk Management
An airport owner is responsible – and therefore potentially liable - for the safety of anyone on his or her property. People may be injured as a result of some unsafe condition on the property itself. These risks are not unlike those encountered on any private property. Uneven ground may provide a trip and fall hazard. The operation of potentially dangerous tools, equipment, or vehicles may expose a visitor to injury. But, airports also present some unique hazards as well. Uncontrolled interactions between airplanes and an unwary visitor can be very dangerous. Furthermore, the risk of an aircraft accident or other damage to an aircraft caused by some unsafe condition on the property can expose an airport owner to significant risk.

The risk of owning an airport can be handled by risk avoidance/mitigation and risk transfer. Risk avoidance / mitigation involves not engaging in activities that expose one to risk and/or establishing rules and procedures to minimize risk. Some airport owners might decide to restrict access to the airport. Proper facilities upkeep is obviously important to eliminate hazards. The name of the game here is controlling the situation and reducing the risk of loss as much as possible. At the point where an airport owner has reduced the risk through avoidance / mitigation techniques and the owner is still not comfortable with the risk, he or she can employ the risk transfer technique by way of an insurance policy. The airport owner must consider the specifics of the situation when deciding on the mix of avoidance and transfer.

Should an airport owner buy insurance? If it's a heavily used public-use airport – Absolutely. If it's a private helipad or other "working" airport that provides a service to the public – Probably. If it's a residential airpark – Maybe, depending on the volume of traffic and the terms of the covenants between users. If it's a low volume, private recreational airstrip – Again, maybe, depending on the owners assessment of the risk and his or her willingness to retain that risk.

No discussion about whether to insure is complete without considering premium. Insurance is all about trading risk for premium and vise versa. Every airport owner would buy insurance if the premium were $10. Fewer would insure at $1,000 and fewer still at $10,000. A good insurance agent can help an airport owner discover what types of insurance are available and at what price based on the specific situation. At that point, it is the owner's job to weigh the premium versus the risk and decide on the appropriate course of action.

Lessons Learned

An illustrative example of the risk-

The pilot of a Beechcraft Baron and three family member passengers were attempting to land at a private airport owned and operated by a golf resort. The pilot had reserved a rental house at the resort community and was flying in for a vacation stay. The Baron's arrival was approximately thirty minutes before sunset and the sun was low on the horizon. The runway was paved, twenty-five feet wide and approximately 2,800 feet in length. The relatively short runway length and brisk late afternoon sea breeze dictated that the pilot land on the runway directly into the setting sun. The passenger sitting in the rear, forward facing seat later stated that the sun's glare through the windshield while on final approach to the runway was very bright and the pilot complained that he was having difficulty seeing the runway.

After touchdown, approximately two thirds of the way down the runway, the aircraft's right wing struck a tractor and mowing machine that had been temporarily parked next to the runway. The witness said that the aircraft was on the runway's paved surface, but near the right side. It was estimated that the aircraft hit the tractor while traveling about 50-60 knots. After the collision, the aircraft left the runway and came to a stop just behind the tractor and caught fire. The pilot and front seat passenger were killed in the fire. The rear seat passengers escaped through the rear aircraft door. The driver of the tractor was away from his machine at the time of the accident and was not injured.

The surviving family members filed suit against the owners of the private resort airport alleging that the resort had created a hazardous situation by having the mowing equipment parked too close to the runway and had failed to adequately warn the pilot that such hazards might exist. The airport owners responded to the suit claiming that it was solely the pilot's responsibility to see and avoid obstacles. The airport owners further claimed that the pilot had not obtained permission to land at the private facility, and had he done so, would have been advised that his use of the airport was at his own risk.

In this case, the golf resort did not carry airport liability insurance. The resort's commercial general liability policy specifically EXCLUDED losses related to aircraft and airport operations. It was the resort's policy to fax a "hold harmless" agreement to any aircraft owner that contacted them for permission to use the facility's airport. The agreement required the pilot's signature and provided some basic information about the airport facilities. The accident pilot did not contact the resort to obtain permission, but according to members of his family, had landed at the resort on many other occasions. The resort did not have a hold harmless agreement with the accident pilot on file.

Because the resort did not insure the airport, they were forced to defend the suit brought by the injured family and pay a settlement without coverage. The total sums paid by the airport owners approached $750,000 for bodily injury and property damage plus legal fees. An airport premises liability policy would have been obtainable to cover the relatively low airport exposure for less than $5,000 annual premium. This policy would have provided a legal defense for the airport owners and would have paid settlements or awards on their behalf up to the policy limit of $1,000,000. Higher limits of liability were also available for additional premium. ✈