

GENERAL COUNSEL

400 Seventh St., S.W. Washington, D.C. 20590

Office of the Secretary of Transportation

SEP 2 2 2005

Mr. Gerald W. Kerr Jr. 500 Fox Ridge Road St. Louis, MO 63131

Dear Mr. Kerr:

This letter is in further reference to your disability complaint, regarding Continental Airlines' policy regarding the Segway Personal Human Transport. We are sorry to hear of the incident and appreciate the opportunity to advise you of the outcome of our investigation. Enclosed you will find an Investigation Summary Sheet that details the results of our investigation, which was based on the Air Carrier Access Act (ACAA), 49 U.S.C. § 41705, and our implementing rule, 14 CFR Part 382.

In particular, the Investigation Summary Sheet identifies the applicable section of 14 CFR Part 382, provides a brief summary of that section and explains this office's view on whether the carrier has violated the ACAA and 14 CFR Part 382. If your complaint raises more than one disability issue, an additional Investigation Summary Sheet has been attached to address each issue.

If we believe the complained of incident involves a violation, the Investigation Summary Sheet indicates the action that we plan to take. We will either pursue formal enforcement action or by copy of this letter notify the airline specified in your complaint of our determination and warn it that any similar incidents could lead to formal enforcement action. Generally, we will pursue enforcement action on the basis of a number of complaints from which we may infer a pattern or practice of discrimination. However, where one or a few complaints describe particularly egregious conduct on the part of a carrier and those complaints are supported by adequate evidence, we will pursue enforcement action as our resources permit. If we decide to seek enforcement action against the airline, your complaint will be among those considered in the context of this action, which may lead to the issuance of a cease and desist order and to the assessment of civil penalties. In the event that this enforcement action leads to litigation, it is possible that we may need sworn statements or witnesses for a hearing. We will advise you if, in fact, we need your further help.

For your information, in an enforcement case, the U.S. Department of Transportation is limited to issuing cease and desist orders and assessing civil penalties not to exceed \$25,000 per violation. Such action can only be accomplished through settlements or formal hearings before administrative law judges. We cannot order compensation for aggrieved parties. To obtain a personal monetary award of damages, a complainant would have to file a private legal action that may be based on private contract rights or on civil rights statutes that provide for a private right of action.

If we have insufficient evidence or it appears that the airline specified in your complaint has not violated the ACAA, we will not pursue enforcement action. Notwithstanding our decision not to pursue enforcement action, however, private legal action may be pursued in the courts based on private contract rights or on civil rights statutes that provide for a private right of action and, in such a proceeding, monetary damages may be sought.

Regardless of whether the airline has been determined to have violated the ACAA, we have entered your complaint in our computerized industry monitoring system, and the carrier's ACAA complaint totals in our monthly *Air Travel Consumer Report* reflect your complaint. Our monthly report is made available to the aviation industry, the news media and the general public so that both consumers and air travel companies can compare the overall complaint records of individual airlines, as well as the number of disability complaints filed against particular carriers. This system also serves as a basis for rulemaking, legislation and research.

Moreover, we also routinely monitor our complaint records to determine the extent to which carriers are in compliance with the ACAA and to track trends or spot areas of concern which we feel may warrant further action. This ongoing process also enables us to ensure prompt corrective action whenever we determine that an airline's policies or procedures are not in compliance with our ACAA regulations. Your complaint will be among those considered in the context of this overall process.

I hope this further information is useful. Thank you again for taking the time to contact us.

Sincerely,

Blane A. Workie

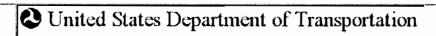
Chief, Aviation Civil Rights Compliance Branch Office of the Assistant General Counsel for Aviation Enforcement and Proceeding

By: Omar V. Guerrero

Trial Attorney

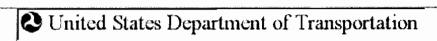
Enclosures

cc: Continental Airlines



INVESTIGATION SUMMARY SHEET

Complainant Title		
Complainant Title	Mr. Last Name Kerr	First Gerald MI
Address 1	500 Fox Ridge Road	City St. Louis
Address 2		State MO Zip Code 63131
Passenger(s)	Mr. Gerald Kerr	
Airline	Continental Airlines	Travel Date(s) none
Flight Number(s)	none	City Pair none
Location of Incide	ent Call to Continental Reservations	}
Complaint/Issue	complaint that he called Continental	ty who uses a Segway as a mobility device, stated in his Airlines and was informed that the carrier does not recognize or individuals with a disability and, as such, will charge any gway \$130.
Applicable Section	n of 14 CFR Part 382 382.57	The state of the s
Rule Violated?		
ridio violatos:	Yes	
	Yes	



INVESTIGATION SUMMARY SHEET

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Mr. Last Name	Kerr	First	Gerald		мі	
500 Fox Ridge Road		City	St. Lou	is		
		State	MO	Zip Code 63	I31	
Mr. Gerald Kerr				N. A		
Continental Airlines		Travel Date(s)	none		- And Administration	
none		City Pair nor	ne		Market and the Market and the State of the S	
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of 14 CFR Part 382	382.41(f)					
own equipment to the e		the door of the a	aircrait so tha	it passengers m	ay use meir	
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	Mr. Last Name 500 Fox Ridge Road Mr. Gerald Kerr Continental Airlines none nt Call to Continenta Mr. Kerr, an individual complaint that Contine at baggage check-in a of 14 CFR Part 382 Carriers shall provide for assistive devices as cloown equipment to the elemental airlines of the carriemobility device for disable required to surrende supplied wheelchair to continental Airlines' Occurriage within 60 days Carriage found that it stitutough or past the airputhis policy to be in viola On August 5, 2004, Do and allow individuals with aircraft so that pass 2005, Continental Airlinest Contract of the continental of the carriemobility device for disable required to surrende supplied wheelchair to continental Airlinest Contract of the carriemobility of the ca	Mr. Carriers shall provide for the checking and assistive devices as close as possible to own equipment to the extent possible. Yes Mr. Kerr's September 7, 2003, complaint that although the carrier will be accepting mobility device for disabled passengers a be required to surrender their Segway at the supplied wheelchair to be transported to to Continental Airlines' October 8, 2003, respectively new technology that the carrier's was refined it would be posted on the carriage within 60 days. On May 18, 200 Carriage found that it stated: "Note: in all through or past the airport security check; this policy to be in violation of 14 CFR 382." On August 5, 2004, DOT requested, in wrand allow individuals with a disability to us the aircraft so that passengers may use the 2005, Continental Airlines' information of 14 CFR 382. On August 5, 2004, DOT requested, in wrand allow individuals with a disability to us the aircraft so that passengers may use the 2005, Continental Airlines informed DOT PHT to be taken by appropriate passenge Continental's Contract of Carriage found in the ca	Mr. Last Name Kerr First 500 Fox Ridge Road City	Mr. Last Name Kerr First Gerald 500 Fox Ridge Road City St. Lou Mr. Gerald Kerr Continental Airlines Travel Date(s) none City Pair none City Pair none Mr. Kerr, an individual with a disability who uses a Segway as a mobic complaint that Continental Airlines told him that his Segway assistive at baggage check-in and that he could not take it to the gate or door of the aircraft so the own equipment to the extent possible. Yes Mr. Kerr's September 7, 2003, complaint letter to DOT stated that he was that although the carrier will be accepting the Segway Personal Huma mobility device for disabled passengers and transporting it free of chain be required to surrender their Segway at baggage check-in and then be required to surrender their Segway at baggage check-in and then be supplied wheelchair to be transported to the aircraft. Continental Airlines' October 8, 2003, response letter to Mr. Kerr state relatively new technology that the carrier's policy was a "work in progrewas refined it would be posted on the carrier's website and added to Carriage within 60 days. On May 18, 2004, DOT's investigation into Carriage within 60 days. On May 18, 2004, DOT's investigation into Carriage found that it stated: "Note: in all cases, the customer will not through or past the airport security checkpoint due to safety and opera this policy to be in violation of 14 CFR 382.41(f). As such, Continental Airlines informed DOT that the carrier was revising in PHT to be taken by appropriate passengers to the gate. On Septemb Continental's Contract of Carriage found it in compliance with DOT's was refired to the Continental Scontract of Carriage found it in compliance with DOT's was refired to the Continental Continental Scontract of Carriage found it in compliance with DOT's was refired to the Continental Scontract of Carriage found it in compliance with DOT's was refired to continental Scontract of Carriage found it in compliance with DOT's was refired to the carefer was revising in the carrier was revising in the carrier was	Mr. Last Name Kerr First Gerald	Mr. Last Name Kerr First Gerald MI 500 Fox Ridge Road City St. Louis State MO Zip Code 63131 Mr. Gerald Kerr Continental Airlines Travel Date(s) none City Pair none City Pair none Mr. Kerr, an individual with a disability who uses a Segway as a mobility device, stated in his complaint that Continental Airlines told him that his Segway assistive device had to be surrendered at baggage check-in and that he could not take it to the gate or door of the aircraft. Carriers shall provide for the checking and timely return of passengers' wheelchairs and other assistive devices as close as possible to the door of the aircraft so that passengers may use their own equipment to the extent possible. Yes Mr. Kerr's September 7, 2003, complaint letter to DOT stated that he was told by Continental Airlines that although the carrier will be accepting the Segway Personal Human Transport (PHT) as a mobility device for disabled passengers and transporting it free of charge, disabled passengers will be required to surrender their Segway at baggage check-in and then be required to use a carrier