

BRAC Real Estate Scam Might Still Be Stopped

by Carl Osgood

While many observers are considering Secretary of Defense Donald Rumsfeld's base closing plan a "done deal," since the Defense Base Closure and Realignment Commission (BRAC) completed its final deliberations, it is anything but. From the state lawsuits over the proposals to close Air National Guard units, to Rumsfeld's criticisms of the BRAC Commission's actions, to the possible impact of the disaster brought to New Orleans by Hurricane Katrina, to possible action by the Congress—the last word on BRAC is a long way from being written. However, this has not stopped real estate developers from salivating over the speculative possibilities of some of the bases that the commission voted to close, such as the Walter Reed Army Medical Center in Washington, D.C.

The leading voice of the speculators has been the *Washington Post*, which applauded the commission's unanimous vote to close Walter Reed. "The campus would provide a once-in-a-lifetime opportunity to transform that segment of Northwest Washington into a location of vibrant commercial and residential properties," the *Post* shamelessly opined on Aug. 27. "District leaders should shed their disappointment with the commission's vote," the paper admonished. "It's not too soon to begin work on a strategy to persuade the Federal government to make the Walter Reed campus part of the city's land inventory."

The *Post*, of course, was also the leading voice for Mayor Anthony Williams's closure of D.C. General Hospital in Southeast Washington, for the same reason: The real estate interests behind the *Post* wanted that land for speculative development. While shedding some crocodile tears over the commission's vote, Williams greedily said of Walter Reed: "I hope that the Federal government moves quickly to turn the property over for some productive use that benefits the neighborhood, the city, and the region."

Lyndon LaRouche emphasized on Aug. 26, that the fight to save Walter Reed is the same fight he waged to save D.C. General in 2001 and 2002. "Washington's not going to be a good place to live, but a great place to die," was the policy of the dirty real-estate looters Katherine Graham represented, LaRouche said. It's the same today.

Echoing LaRouche and taking a leading point against Rumsfeld's scheme is Senate Armed Services Committee chairman John Warner (R-Va.), who, on Aug. 23, accused Rumsfeld of running a "rigged" process that automatically decided that DoD-leased space in Northern Virginia was less desirable than moving those functions to military installations. "In simple terms, the military value was rigged," Warner told the same *Washington Post* on Aug. 23, in order to achieve "specifically, unrelated real estate management goals."

Warner indicated that a legal challenge from Virginia Governor Mark Warner (D) could be in the offing. "I'd have to consult with the governor. . ." he said, as well as the rest of the state's Congressional delegation and the local community, "but I think Virginia has a very strong resolve that whatever is done by the BRAC Commission in this state is done with strict accordance to the law. It's simple. BRAC is designed to eliminate excess facilities, not designed to go back to redo business decisions with leasing structure, which you can do 365 days a year."

States Take Legal Action

While Warner is contemplating legal action, a number of states are already moving ahead in that realm, and the BRAC Commission's decisions regarding the Air National Guard seem only to have accelerated that process. The Pentagon plan for the Air National Guard has been the hottest controversy throughout the entire BRAC process, since the Pentagon re-

port was released on May 13. The Pentagon plan envisioned shutting down 38 Air National Guard flying squadrons, as well as 10 Air Force Reserve units, and consolidating those aircraft into fewer, but larger squadrons, as well as retiring hundreds of older F-16 fighters and KC-135 tankers. Although no one really argues with that logic, the Air Force never consulted with the states while developing its plan, setting off a huge legal and political battle.

The Air Force's assumption seems to have been that if they had consulted with the states, they never would have been able to move even one airplane. In contrast, the Army worked very closely with the states on its proposals to consolidate Army National Guard and Army Reserve Centers, such that 39 state Adjutants General signed off on the Army plan.

The BRAC Commission's decision to rewrite the Air Force plan, in an attempt to find some middle ground between the states and the Air Force, appears to be doing little to reduce the turbulence. Hours before the commission acted, a Federal judge in Pennsylvania ruled in favor of that state's suit to prevent the shutdown of the 111th Fighter Wing of the Pennsylvania Air National Guard. Judge John R. Padova ruled that the law requires the Pentagon to seek the permission of the governor before making any change to the composition or mission of a National Guard unit. The Justice Department had argued that the provision of Title 32 of the U.S. Code, which Pennsylvania had cited, applied only to actions taken under that chapter, and not to the BRAC law, but Padova noted that Congress did not address units of the National Guard in writing the BRAC law, and therefore intended that the BRAC law would not apply to the National Guard.

The judge also found that the Pentagon proposal to close the 111th Fighter Wing violated Pennsylvania Gov. Ed Rendell's rights as commander-in-chief of the Pennsylvania National Guard, a right which stems from the militia clause in Article I, Section 8 of the Constitution. As a result of his findings, the judge ruled that the section of the Pentagon BRAC report which called for deactivation of the 111th Fighter Wing is "null and void."

The BRAC Commission's plan, voted up in the evening hours of Aug. 26, saved nine Air National Guard flying squadrons, as well as one Air Force Reserve squadron, including a few of the most contested ones, such as the C-130 squadrons in West Virginia and Delaware and the F-15 fighter squadron in Portland, Ore., but still left Connecticut without any flying mission, at all.

Connecticut's response was to file its own lawsuit, on Aug. 29, which challenges the BRAC statute itself. Connecticut Gov. Jodi Rell (R) said that she was going to court "to protect my authority, and that of future governors, as commander in chief" of the National Guard in her state. "Closing an Air National Guard base during these times of heightened alerts and homeland security defies common sense and ignores today's realities," Rell said. "It would also be severely detrimental to recruiting efforts."

The judge in the Connecticut case issued a temporary restraining order on Aug. 31, preventing the commission from releasing its recommendation regarding Connecticut until he rules in the state's request for a preliminary injunction. As a result, both Illinois and Tennessee have accelerated their legal efforts by filing motions for injunctions to stop the BRAC process, before the commission releases its report on Sept. 8, and Missouri joined them on Sept. 1. Other states, such as Massachusetts, are considering joining them. In addition, Missouri Gov. Matt Blunt (R) has asked his state's Congressional delegation to oppose the plan, if and when it gets to Congress.

What Will Congress Do?

Aside from the courts, the next battleground will be the U.S. Congress, which will receive the BRAC Commission's report once it is accepted by President Bush. However, even that is in doubt, as Secretary of Defense Rumsfeld complained to reporters on Aug. 30 that the commission had placed too much emphasis on economic impact, and not enough military value criteria. He said he was uncertain as to whether or not he would recommend to President Bush that he accept the commission's recommendations. If Bush rejects the report, it goes back to the commission for reconsideration. If he rejects it, again, then the process comes to a halt.

The BRAC plan has already been the subject of spirited debate in the Congress, although no measures have been passed yet that could slow it down. In the Senate, Sen. John Thune (R-S.D.) waged a campaign to save Ellsworth Air Force Base. In the course of this, he sponsored an amendment to the Fiscal 2006 defense authorization bill to halt the BRAC process until three conditions were met: the completion of the repositioning of troops from overseas bases to the U.S.; the completion of the Quadrennial Defense Review; and a substantial draw-down of U.S. troops from Iraq.

Rather than allow a debate to occur on this amendment and other amendments dealing with the treatment of detainees in U.S. custody in Guantanamo, Iraq, and Afghanistan, Senate Majority Leader Bill Frist (R-Tenn.) pulled the bill from the floor in July, before the Senate left for its summer recess.

After the commission voted to save the Ellsworth base, Thune indicated on Aug. 26 that he would consult with his co-sponsors on what to do on his amendment when the Senate resumes consideration of the defense authorization bill in September. Among his co-sponsors are Senators Chris Dodd and Joe Lieberman, both Connecticut Democrats, and both angry at the inclusion of the New London submarine base on the Pentagon's closure list—a closure recommendation the BRAC commission also rejected. A couple of days later, during an appearance on ABC's "This Week" with George Stephanopoulos, Thune said that while some of his co-sponsors may now have a different view, he thought the principles of his amendment were still valid. "And frankly, I don't think that what happened with the BRAC commission negates the need to look at things through that lens," Thune said.