

Business Aircraft Sales Market is Entering a More Balanced Phase in 2023 – That Means Sellers and Buyers are Actually Negotiating Again!



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The business aircraft sales market appears to have started off the new year with nearly the same vigor as the end of 2022 but as a seasoned aviation attorney, I can already see subtle differences and it suggests that we are entering into more balanced market conditions.

As it turns out, the first several transactions that Aerlex Law Group has handled in 2023 have all involved the representation of buyers rather than sellers and so I've been primarily exposed to the psychology of buyers and buyer-brokers and it's obvious that the frenzy that marked the last half of 2021 and most of 2022 has subsided.

I have been handling aircraft transactions for more than 30 years and the conditions that marked the end of the post-pandemic phase were absolutely unprecedented in my experience. The burst of new buyers entering the market for the first time, the cache of cash they had been able to accumulate while Covid-19 kept everyone locked down, historically low interest rates, the paucity of pre-owned inventory and sellers' awareness that if they sold their aircraft they might not be able to find a ready replacement, manufacturers' already jam-packed order books and the multi-year waiting times for new aircraft deliveries, the lack of pre-purchase inspection capacity at repair shops, the looming end of 100% bonus depreciation – all these factors combined to create an unprecedented sellers' market, driving up prices for

all models and all ages of aircraft, leading to bidding wars, competing offers over asking price, many all-cash purchases and deal terms unlike anything we had ever seen: sales being closed on a total "as is, where is, with all faults" basis without pre-buys or with inspections delayed for weeks or even months after closing, and limited holdbacks to protect the buyers against any discrepancies that might be discovered – sellers dictated those terms because they knew they could. The International Aircraft Dealers Association (IADA), of which Aerlex is a member, reported that there were nearly 1,400 preowned aircraft sales in 2022 with an aggregate value of \$9.3 billion. It was an explosive time and everyone involved in the industry, brokers, lawyers, escrow and title companies, maintenance, repair and overhaul (MRO) facilities, technical inspection overseers, the Federal Aviation Administration – literally everyone – could barely keep up with it.

That brief and exhausting era is over, however, and that realization is becoming increasingly clear to everyone in the business aircraft industry.

Pre-owned inventory is slowly edging upward in certain segments of the market and more airplanes are becoming available for purchase although we still have a ways to go to return to a truly balanced market. Original equipment manufacturers (OEMs) have not increased the pace on the assembly line so delivery dates for new customers are still two or three years in the future and that wait time continues to buoy the pre-owned market, but based on my experience and my conversations with current and prospective clients, it seems clear that the 2021-2022 fever has broken.

Today's prospective buyers are more patient, more discerning, more price-conscious and more demanding. Tax-motivated purchasers buyers who anticipate significant business usage of their aircraft recognize that, even though it has dropped from 100% to 80% in 2023, accelerated

depreciation still offers a powerful incentive for purchase – but they also know that they have more than 10 months to put an aircraft into service in order to claim that 80% first-year write-off and they're prepared to wait for an airplane that really satisfies their specific needs for air transportation. Inspection slots still aren't plentiful, but they're more readily available, often in days or weeks rather than months. The supply chain problems involving replacement parts seems to be easing slowly. The price of crude oil, and refined Jet A-1 aviation fuel, has gone up dramatically, the spikes fueled by post-pandemic supply issues and the Russian invasion of Ukraine, and that can be a deterrent for some users. Interest rates, while still low by historic standards, have been raised significantly and repeatedly since March 2022 and that shrinks the pool of prospective purchasers somewhat.

When you combine all these factors together, the result is that aircraft transactions are once again actually being "negotiated" and buyers and sellers, aviation lawyers and aircraft brokers are doing what they should be doing: strategizing with their clients, assessing what aircraft will best fit the user's needs, analyzing the market, deciding what contractual terms are truly important and what's not, talking with the other side and trying to figure out win-win deals that work for both sides.

I'll talk more about this process in a future column. And as always, feel free to contact me at Aerlex Law Group in Los Angeles if you'd like to talk more about an aircraft sale or acquisition. ■

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