



Every Unhappy Airport: Santa Monica and the Municipal Airport Conundrum

By Mária Zulick Nucci

Happy families are all alike; every unhappy family is unhappy in its own way.

—Leo Tolstoy, *Anna Karenina*

The first line of Tolstoy’s venerable classic presages the modern aviation cliché, “When you’ve seen one airport, you’ve seen one airport.” This article focuses on one airport: Santa Monica Municipal Airport (SMO or Airport), which for more than 50 years has been the focus of intense legal and political battles over its very existence. The SMO saga epitomizes the dilemma of maintaining the viability of municipal airports notwithstanding local interest in converting airport premises to nonaviation uses.

The legal, historical, and litigation background of SMO spans decades and involves the City of Santa Monica (City), tenants, users, and neighbors—in short, the “unhappy family.” The Airport’s proponents argue that federal law supports its continued operation, point out that the nation’s safe and efficient air transportation infrastructure relies on its availability, and cite its local economic benefits in opposing the City’s desire to close the Airport for nonaviation development. The City and the Airport’s opponents in the community argue that the Airport poses unacceptable noise, pollution, and ground safety risks in an urban and residential area.

Despite a February 1, 2017, consent decree,¹ which was expected to finally resolve the myriad legal battles involving the Airport, litigation continues. This article will review the history of the SMO legal saga and its impact on similar disputes involving other airports.

SMO’s Early Development

SMO started as a landing strip in 1917, and in 1919 became Clover Field. Shortly thereafter, Douglas Aircraft Company began producing civilian and military aircraft there. The City first acquired the land that is now part of the Airport in 1926, changed Clover Field’s name to Santa Monica Airport in 1927, and acquired additional adjacent parcels through 1941.²

In May 1941, President Franklin D. Roosevelt issued Presidential Proclamation 2487, declaring an “unlimited

national emergency” requiring “military, naval, air, and civilian . . . readiness to repel any and all acts or threats of aggression.”³ In response, in December 1941, the City entered into two leases with the United States: (1) a “runway lease” for 86 acres in the northerly part of the Airport, including the runways, for a term lasting until 12 months after the expiration of Proclamation 2487; and (2) a “golf course lease” for 83 acres to the south, for a term lasting until June 1943 with an option to extend on an annual basis to June 1947. Douglas Aircraft Company built planes for the war effort, including the Douglas XB-19, then the largest bomber built for the Army Air Corps. Given the City’s size and the Airport’s use at that time, neighbors were comparatively few, but during the war the community’s population increased rapidly.

In 1944 and 1945, the City and the federal government executed supplements to the runway and golf course leases, respectively. The supplements provided for construction of a new runway, and the United States agreed to convey such improvements to the City. The golf course lease term also was extended to 12 months after the termination of Proclamation 2487. In April 1945, the United States acquired 20 acres of residential property to the west of the Airport; according to the City, this was accomplished by condemnation and purchase using City funds.⁴ Under additional supplements to the leases, entered into on July 15, 1946, the federal government was relieved of its obligations to maintain the Airport and pay rent, but did not surrender its leaseholds; rather, the City agreed to operate the Airport under a right of entry.

In 1948, the City and the United States, through the former War Assets Administration and pursuant to the Surplus Property Act,⁵ entered into an instrument of transfer by which the United States surrendered to the City its remaining Airport leaseholds, some easements, improvements, and personal property, subject to certain terms that were to run with the land. First, the land, improvements, and other items transferred to the City were to be used for public airport purposes. Second, the City was not to use, lease, sell, salvage, or dispose of any transferred property for nonairport use without federal consent. The instrument of transfer was recorded as a quitclaim deed. In 1949, the United States also quitclaimed to the City its interest in the 20 acres it had purchased with City funds. In 1952, President Harry S. Truman terminated Proclamation 2487.

Mária Zulick Nucci (MJNucci58@gmail.com) is a contract attorney with Allerton Bell in Douglassville, Pennsylvania. Her airports career has focused on general aviation, particularly with the Reno-Tahoe Airport Authority, where she handled matters at Reno-Stead Airport.

The Closure Movement Develops

In the 1950s, general aviation grew at SMO, largely due to military pilots returning to the area after serving in World War II and the Korean conflict. In addition, commercial airlines were expanding, and pilot training at SMO reached an all-time high. Outside the Airport, the City's size and demographics shifted in the post-war decades from that of a small resort community to a higher-income suburb of Los Angeles.⁶

The City first considered closing the Airport at a City Council hearing on January 10, 1962. In conjunction with that hearing, the City Attorney issued an important opinion letter stating that the 1948 instrument of transfer and certain federal contracts prevented the City from closing the Airport.

Legal disputes over aircraft operations and noise, and then over local efforts to regulate them, began with *Nestle v. City of Santa Monica*,⁷ an inverse condemnation noise action brought by Airport neighbors, followed by *Stagg v. Municipal Court*,⁸ which was an operator's challenge to the City's imposition of a nighttime curfew. The City revisited the closure issue in 1970 and 1971, but the Federal Aviation Administration (FAA) opposed closure, citing the United States' investment in the Airport and its place in the national air transportation system. The FAA also noted the 1962 opinion letter, which advised that, under the instrument of transfer, the City must maintain the Airport as an airport.

In 1974, the Airport Neighbors Forum, consisting of "representatives of local airport neighborhoods and interested in aviation,"⁹ was formed to advocate for noise mitigation. In 1975, in response to community complaints, the City Council (1) imposed a night curfew, (2) imposed a maximum single-event noise level of 100dB, and (3) banned certain low approaches on weekends, helicopter training, and all jet traffic, with fines for jet landings and takeoffs.¹⁰ In the 1980s, the Santa Monica Airport Association and other SMO users and supporters challenged these restrictions on federal preemption grounds. The U.S. District Court for the Central District of California, however, rejected the plaintiffs' preemption argument, ruling that because municipal control of airports was not totally preempted, reasonable, nondiscriminatory controls were valid.¹¹ The first two impositions plus the bans on low weekend approaches and helicopter training did not violate federal grant agreement or lease terms, the Federal Aviation Act,¹² or the equal protection and commerce clauses.¹³ However, the court struck the jet ban and fine ordinances on the basis that they violated those constitutional clauses.¹⁴

The closure effort gained momentum in the 1980s. The City conducted an economic impact study, which concluded that the municipality would generate more revenue from closing the airport for commercial redevelopment. In 1981, the City Council adopted Resolution No. 6296, which provided for closing the Airport

as soon as legally possible. On January 31, 1984, in an attempt to resolve the closure issue, the FAA and the City entered into the Santa Monica Airport Agreement (1984 Agreement), which required operation of the Airport until July 1, 2015, but did not specifically address its fate thereafter.¹⁵ The City Council, meanwhile, sought to ban Category C and D aircraft¹⁶ from the Airport due to their size and speed. The FAA challenged that action, and the U.S. Court of Appeals for the District of Columbia Circuit struck down the City's ban.¹⁷

Recent Litigation over Closing SMO

In a 2013 complaint¹⁸ filed in the Central District of California, the City sought authority under the federal Quiet Title Act¹⁹ to reclaim control of the Airport. The City argued that the FAA's requirement that the City operate SMO in perpetuity constituted a constructive confiscation of the City's property and a Fifth Amendment taking. It contended that the United States never owned SMO so that the 1948 instrument of transfer and quitclaim deed were invalid, and that the related requirement to maintain the property as an Airport prevented the City from exercising its sovereign power over SMO as well as its police power to protect the public and serve community needs. The City also argued that just compensation was not available to redress the harm it suffered and that the FAA's requirement to operate SMO in perpetuity was a "commandeer[ing]" of City property in violation of the Tenth Amendment. Finally, the City claimed that the FAA's position violated the City's Fifth Amendment substantive due process rights. The FAA moved to dismiss, arguing primarily that the City's action was time-barred under the applicable statute of limitations.²⁰

The National Business Aviation Association (NBAA) and the Aircraft Owners and Pilots Association (AOPA) filed an amici curiae brief supporting the FAA's dismissal motion, citing SMO's significance to their members in the congested Southern California airspace and to the national air transportation infrastructure.²¹

The district court dismissed the City's complaint, ruling that the Quiet Title Act request was time-barred. The court reasoned that as early as 1948, when the instrument of transfer was executed, the City had notice of the federal government's interest in the Airport. The Quiet Title Act claim was dismissed with prejudice; the court dismissed the City's remaining claims without prejudice.²²

The City appealed. In an unpublished decision, the U.S. Court of Appeals for the Ninth Circuit reversed, holding that the district court erred in finding that the statute of limitations issue was not "inextricably intertwined" with the merits of the Quiet Title Act claim. The Ninth Circuit ruled that the district court should have held a fact-finding trial, and that it erred in finding that the instrument of transfer clouded title to the land for purposes of triggering the statute of limitations. The case was remanded for further

proceedings.²³ While the litigation was pending, Santa Monica voters approved a measure providing that if SMO closed, the land could only be used for parks, open space, recreational, educational, and/or cultural purposes, absent a public vote.²⁴

The City's quiet title action and its reversal and remand began a new series of administrative and judicial actions over SMO's closure. In 2014, the NBAA, the AOPA, and airport tenants and users filed a "part 16 complaint"²⁵ with the FAA against the City regarding the City's position that under the 1984 Agreement its Airport Improvement Program (AIP) grant obligations²⁶ ended after July 1, 2015.²⁷ In response, the FAA issued a director's determination that the City's grant assurance obligations remained effective until August 27, 2023.²⁸ The FAA's final decision upheld that determination.²⁹

In another part 16 complaint, several Airport users, individuals, and business tenants alleged that the City was unlawfully "squeezing" rates and charges, imposing "burdensome operational and lease restrictions," and engaging in revenue diversion, all as part of its plan to close SMO.³⁰ Atlantic Aviation, a fixed-base operator (FBO), alleged that its lease had expired June 30, 2015, without offer of a new lease. It contended that the City was seeking to take over FBO services and limit fuel sales and other services as part of a plan to close SMO in violation of the City's federal obligations.³¹ Justice Aviation, a flight school and aircraft rental business, filed its own part 16 complaint, also alleging that its lease had expired June 30, 2015, and that the City was not offering or negotiating new leases with aeronautical tenants.³² Justice Aviation also filed a complaint in federal court, setting forth essentially the same allegations and claims.³³ American Flyers, which operated a flight school and provided hangar and tie-down rentals and self-fueling, challenged the City's 30-day notice to vacate as violating FAA grant assurances 22 and 23, which require airports to operate for the benefit of the public, without exclusive rights. American Flyers also alleged that the City had violated the 1948 instrument of transfer.³⁴

With these complaints pending, the FAA and the City, on January 30, 2017, entered into the stipulation and order/consent decree and settlement agreement in the quiet title action. Its stated purpose was to "resolve any and all claims of the City arising from the events giving rise to the allegations described in the Complaint . . . and in certain other proceedings between the parties."³⁵ The settlement agreement provided that the City would operate SMO until December 31, 2028, unless the parties agreed to an earlier closure date, and maintain the runway at 3,500 feet (having planned to shorten it from 4,973 feet in order to reduce jet traffic). The City "may exercise its proprietary exclusive right to provide aeronautical services," including fuel, and may request enhanced flight curfews from the FAA; it must provide leases for FBOs and aeronautical service

providers on reasonable terms, as required by federal law.³⁶ On February 1, 2017, the Central District of California entered the stipulation with the settlement agreement as a formal consent decree.

Stakeholders from opposing sides of the debate objected to the consent decree—to date without success. For example, the district court dismissed a challenge based on California's 1953 Brown Act, the California Constitution, and the Santa Monica City Charter, alleging violations of open meeting laws, the City's conduct of a Saturday Council session, and discrepancies in or changes to the City's posted notices of the meeting.³⁷ A private pilot filed a pro se action to invalidate the settlement and reverse the then planned construction to shorten the runway, but that action was dismissed. The NBAA and other aviation groups and businesses petitioned for review of the settlement agreement under the Administrative Procedure Act in the D.C. Circuit. The court of appeals, however, found the settlement agreement to be integral to the consent decree, which was reviewable only in the Ninth Circuit, and denied the parties' petition.³⁸

Still pending, the NBAA and other parties challenged the FAA's action in D.C. federal district court as violating multiple federal laws and in excess of its authority.

Other Airports Also Face Existential Challenges

Other municipal, general, and business aviation airports face challenges arising from community objections to noise and fears of pollution and accidents, and from a desire to develop or redevelop airport property to make a facility "as self-sustaining as possible"³⁹ while also creating jobs and increasing revenue.

East Hampton Airport (HTO), in the Town of East Hampton, New York (Town), has been the subject of disputes that resemble the SMO saga. The U.S. Court of Appeals for the Second Circuit found that access restrictions imposed by the Town violated the Airport Noise and Capacity Act of 1990, which preempts local laws regarding airport noise and access.⁴⁰ In response, after the U.S. Supreme Court denied certiorari,⁴¹ the Town commenced a part 16⁴² study, including consideration of closing HTO.⁴³ It also has a dedicated website, "East Hampton Proposed Legislation Documents," providing links to legal and other documents relating to the borough's noise relief efforts.⁴⁴

The City of Detroit conducted a study of Coleman A. Young Municipal Airport to evaluate closure for nonaviation reuse, leading to concerns that the published report had been significantly redacted, including removing the names of key stakeholders and industry groups.⁴⁵

The City Council of Banning, California, voted to close Banning Municipal Airport, recognizing that the process could take years.⁴⁶

The Reno-Tahoe Airport Authority entered into a

50-year agreement with a real estate development firm for Reno-Stead Airport, the latest step in a long-running effort to develop that facility despite challenges of access, water rights, infrastructure, and community noise and safety concerns, and issues associated with the National Championship Air Races (NCAR), commonly known as the Reno Air Races.⁴⁷

Recently, privately owned Marlboro Airport, in Massachusetts, which is almost a century old, was sold to a developer for conversion into an industrial park.⁴⁸

On the positive side for airports, the City of Newport Beach and Orange County, California, settled their litigation with the FAA over the SoCal Metroplex project, which redesigned the airspace and flight paths for several airports in Southern California, as it affected John Wayne Airport.⁴⁹ Long Beach Airport is proceeding with a redevelopment and improvement plan, including the goal of making it an airport leader in sustainability,⁵⁰ and Glacier Park International Airport is the subject of a master plan process for expansion and development, given its growth.⁵¹

The owners of some of these airports were able to act without significant, if any, opposition, whether to develop and expand the facility or close and redevelop it; others, as best exemplified in East Hampton, continue to face substantial opposition and possibly further litigation. All of them may take from Santa Monica's experience the importance of thorough legal research and analysis of federal law applicable to airports, particularly where grant assurances and the duration of those obligations are involved, and the scope of federal authority over airports in relation to allowable local control. They should also see the importance of careful, precise drafting, not only of agreements but also of ordinances, rules and regulations, correspondence, and public outreach materials. In conjunction, and perhaps most importantly, they should keep aware of changes in population density and demographics in their surrounding communities—particularly as they might relate to changes in airport operations and use—as these affect perceptions of, and hence attitudes toward, the airport and, in turn, risks of potential administrative and judicial actions. The extensive administrative and judicial records in the various SMO disputes should be studied, as a valuable tutorial on these topics.

Conclusion

Uncertainty over the fate of SMO persists. The consent decree does not *require* the City to close SMO in 2028, but only to operate it until then. Given the legal principles that can be distilled from the complex litigation history at SMO, Airport supporters should work to elect City officials supportive of SMO and educate the community about its direct and indirect benefits to the community.⁵² An economic impact study would be a strong step,⁵³ as would a study of whether any

continuing noise problems derive not from SMO but from other neighboring airports, particularly in light of FAA NextGen and SoCal Metroplex changes to commercial operations and flight paths.

One airport is indeed one airport, each with its own historical, operational, demographic, and political realities, which might lead communities to seek further airport development—or closure and redevelopment. Owners of airports for which closure is contemplated should weigh the merits of not accepting AIP or other federal funds. They should also assess whether they can reimburse previously received funds if it would relieve them of a federal obligation to keep an airport open. Such efforts could well face challenges by airport supporters, as has occurred at SMO. The SMO past and continuing experience should be closely studied, as it is instructive for many other small, general, and business aviation airports, to reduce their risk of becoming another unhappy family.

Endnotes

1. Stipulation and Order/Consent Decree, City of Santa Monica v. United States, No. 2:13-cv-08046-JFW-VBK (C.D. Cal. Feb. 1, 2017), <https://www.smgov.net/uploadedFiles/Departments/Airport/Litigation/StipulationOrderConsentDecree020117.pdf>.
2. For a history of SMO, including archival photographs, see <https://www.smgov.net/Departments/Airport/History.aspx>. See also Order Granting Defendants' Motion to Dismiss, *City of Santa Monica*, No. 2:13-cv-08046-JFW-VBK (C.D. Cal. Feb. 13, 2014), <https://www.smgov.net/uploadedFiles/Departments/Airport/Court's%20Decision%20and%20Order%20granting%20USA's%20MTD.pdf>.
3. Proclamation No. 2487, 6 Fed. Reg. 2617 (May 29, 1941), <https://www.presidency.ucsb.edu/documents/proclamation-2487-proclaiming-that-unlimited-national-emergency-confronts-this-country>.
4. City of Santa Monica, City Council Report (Mar. 25, 2014), <https://www.smgov.net/departments/council/agendas/2014/20140325/s2014032508-A.htm>.
5. 49 U.S.C. §§ 47151 *et seq.*
6. Colin Marshall, *Santa Monica: The City That Wants to Design Itself Happier*, *GUARDIAN* (July 21, 2015), <https://www.theguardian.com/cities/2015/jul/21/santa-monica-city-design-happier-wellbeing-sun-sea>.
7. 496 P.2d 480 (Cal. 1972).
8. 82 Cal. Rptr. 578 (Ct. App. 1969).
9. Bob Trimborn et al., City of Santa Monica: A Partial History of Santa Monica Airport 3 (Sept. 26, 2011), [https://www.smgov.net/uploadedFiles/Departments/Airport/SMO%20Timeline%2010-3-11%20\(final\).pdf](https://www.smgov.net/uploadedFiles/Departments/Airport/SMO%20Timeline%2010-3-11%20(final).pdf).
10. See *Santa Monica Airport Ass'n v. City of Santa Monica*, 481 F. Supp. 927 (C.D. Cal. 1979), *aff'd*, 659 F.2d 100 (9th Cir. 1981). Douglas Aircraft Company left SMO in 1975, to consolidate its operations at Long Beach Airport.
11. *Santa Monica Airport Ass'n*, 481 F. Supp. at 932.
12. Federal Aviation Act of 1958, Pub. L. No. 85-726, 72

Stat. 731 (codified at 49 U.S.C. §§ 40101 *et seq.*).

13. U.S. CONST. amend. XIV, § 1; art. I, § 8.

14. *Santa Monica Airport Ass'n*, 481 F. Supp. at 943–45 (striking on constitutional grounds ban on jet traffic because jets are not necessarily noisier than propeller craft).

15. Santa Monica Airport Agreement (Jan. 31, 1984), https://www.smgov.net/uploadedFiles/Departments/Airport/About/1984_Agreement.pdf.

16. Category C aircraft travel at speeds between 121 and 140 knots; Category D aircraft between 141 and 165 knots. *See* 14 C.F.R. § 97.3.

17. *City of Santa Monica v. FAA*, 631 F.3d 550 (D.C. Cir. 2011) (concluding that the FAA did not act arbitrarily or capriciously in deciding that the ordinance violated the grant assurance against unjust economic discrimination); *see also* Stephen Brice, *Ties That Bind: FAA Enforcement of Grant Assurances—The Santa Monica Airport Case*, 25 AIR & SPACE LAW., no. 1, 2012, at 9 (discussing this case).

18. Complaint, *City of Santa Monica v. United States*, No. 2:13-cv-08046-JFW-VBK (C.D. Cal. Oct. 31, 2013), [https://www.smgov.net/uploadedFiles/Departments/Airport/Complaint/SMO%20Complaint%20\(conformed%20copy\)%20\(10-31-13\).pdf](https://www.smgov.net/uploadedFiles/Departments/Airport/Complaint/SMO%20Complaint%20(conformed%20copy)%20(10-31-13).pdf).

19. 28 U.S.C. § 2409a.

20. Defendant's Motion to Dismiss, *City of Santa Monica*, No. 2:13-cv-08046-JFW-VBK (C.D. Cal. Jan. 10, 2014), [https://www.smgov.net/uploadedFiles/Departments/Airport/US%20DOJ%20Motion%20to%20Dismiss%20\(motion%20only\).pdf](https://www.smgov.net/uploadedFiles/Departments/Airport/US%20DOJ%20Motion%20to%20Dismiss%20(motion%20only).pdf).

21. Press Release, Nat'l Bus. Aviation Ass'n, NBAA, AOPA Continue Supporting FAA's Motion to Preserve Santa Monica Airport (Feb. 10, 2014), <https://nbaa.org/press-releases/nbaa-aopa-continue-supporting-faas-motion-to-preserve-santa-monica-airport/>.

22. Order Granting Defendants' Motion to Dismiss, *supra* note 2.

23. *City of Santa Monica v. United States*, No. 14-55583 (9th Cir. May 16, 2016) (unpublished), <https://cdn.ca9.uscourts.gov/datastore/memoranda/2016/05/16/14-55583.pdf>.

24. Press Release, City of Santa Monica, Santa Monica City Council Votes to Close Airport (Aug. 23, 2016), <https://www.santamonica.gov/press/2016/08/24/santa-monica-city-council-votes-to-close-airport>.

25. 14 C.F.R. pt. 16 (providing for formal administrative complaints about airport sponsor noncompliance with grant assurances); *see Complaints about Airport Compliance*, FAA, https://www.faa.gov/airports/airport_compliance/complaints/ (last modified June 3, 2019).

26. *See* 49 U.S.C. §§ 47101 *et seq.*; FAA Airport Compliance Manual, FAA Order No. 5190.6B (Sept. 30, 2009); FAA, Assurances: Airport Sponsors (Mar. 2014), https://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip.pdf.

27. Nat'l Bus. Aviation Ass'n v. City of Santa Monica, FAA Docket No. 16-14-04, Part 16 Complaint (July 2, 2014).

28. *Nat'l Bus. Aviation Ass'n*, FAA Docket No. 16-14-04, Director's Determination (Dec. 4, 2015), <https://www.smgov.net/uploadedFiles/Departments/CMO/Airport/NBAA%20v%20City%20-%20Director's%20Determination%20>

[16-14-04%20\(12-4-15\).pdf](https://www.smgov.net/uploadedFiles/Departments/CMO/Airport/NBAA%20v%20City%20-%20Director's%20Determination%2016-14-04%20(12-4-15).pdf).

29. *Nat'l Bus. Aviation Ass'n*, FAA Docket No. 16-14-04, Final Agency Decision (Aug. 15, 2016), <https://nbaa.org/wp-content/uploads/aircraft-operations/airports/smo/Final-Decision-for-Docket-16-14-04.pdf>.

30. *Smith v. City of Santa Monica*, FAA Docket No. 16-16-02, Part 16 Complaint (Feb. 5, 2016), [https://www.smgov.net/uploadedFiles/Departments/CMO/NBAA%20Part-16%20Complaint%20\(2-5-16\).pdf](https://www.smgov.net/uploadedFiles/Departments/CMO/NBAA%20Part-16%20Complaint%20(2-5-16).pdf).

31. *Atl. Aviation FBO, Inc. v. City of Santa Monica*, FAA Docket No. 16-16-12, Part 16 Complaint (Sept. 13, 2016), <https://www.smgov.net/uploadedFiles/Departments/Airport/Litigation/Atlantic%20Aviation%20FBO%20Inc%20%20v%20%20City%20of%20Santa%20Monica%20California%20Part%2016%20%20%20.pdf>.

32. *Justice Aviation, Inc. v. City of Santa Monica*, FAA Docket No. 16-16-07, Part 16 Complaint (Mar. 17, 2016), [https://www.smgov.net/uploadedFiles/Departments/CMO/Airport/Part%2016%20-%20Complaint%20-%20Justice%20Aviation%20\(3-17-16\)\(1\).pdf](https://www.smgov.net/uploadedFiles/Departments/CMO/Airport/Part%2016%20-%20Complaint%20-%20Justice%20Aviation%20(3-17-16)(1).pdf).

33. Complaint, *Justice Aviation, Inc. v. City of Santa Monica*, No. 2:16-cv-02043 (C.D. Cal. Mar. 25, 2016).

34. *Am. Flyers, Inc. v. City of Santa Monica*, FAA Docket No. 16-16-14, Part 16 Complaint (Sept. 21, 2016), https://d3n8a8pro7vhm.cloudfront.net/santamonicaairport/pages/275/attachments/original/1474495091/AF_Part_16_Complaint_-_FINAL_-_09_21_16.pdf?1474495091.

35. Stipulation and Order/Consent Decree, *supra* note 1, at 1.

36. *Id.* at 10–11.

37. *Scott v. City Council*, No. 2:17-cv-07329 (C.D. Cal. Dec. 15, 2017).

38. *Nat'l Bus. Aviation Ass'n v. Huerta*, No. 17-1054 (D.C. Cir. June 12, 2018) (unpublished), [https://www.cadc.uscourts.gov/internet/judgments.nsf/0579572FC4DF2FD4852582AA0426B85/\\$file/17-1054-1735490.pdf](https://www.cadc.uscourts.gov/internet/judgments.nsf/0579572FC4DF2FD4852582AA0426B85/$file/17-1054-1735490.pdf).

39. 49 U.S.C. § 47107(a)(13).

40. *Friends of East Hampton Airport, Inc. v. Town of East Hampton*, 841 F.3d 133, 151–52 (2d Cir. 2016) (citing 49 U.S.C. § 47524).

41. *Town of East Hampton v. Friends of the East Hampton Airport, Inc.*, 137 S. Ct. 2295 (2017).

42. 49 C.F.R. pt. 161. This part governs the process for developing FAA-approved agreements for noise and access restrictions on aircraft, noise description methods, and land uses in the airport noise study area. Noncompliance can affect eligibility for grant funding and for approval of passenger facility charge (PFC) collections.

43. Kerry Lynch, *East Hampton Eyes Airport Restrictions, Mulls Closure*, AINONLINE (Apr. 30, 2018), <https://www.ainonline.com/aviation-news/business-aviation/2018-04-30/east-hampton-eyes-airport-restrictions-mulls-closure>.

44. EAST HAMPTON PROPOSED AIRPORT LEGIS. DOCUMENTS, <http://www.htoplanning.com> (last updated Mar. 22, 2019).

45. *Detroit Airport Study Was Heavily Edited*, AIRCRAFT OWNERS & PILOTS ASS'N (Mar. 28, 2018), <https://www.aopa.org/news-and-media/all-news/2018/march/28/>

detroit-airport-study-was-heavily-edited.

46. *Banning, CA City Council Votes to Close Airport*, AERO NEWS NETWORK (May 2, 2017), <http://www.aero-news.net/index.cfm?do=main.textpost&id=72ed2fef-4842-42ce-b4b7-20a4feeaeabf>.

47. Truckee Meadows Reg'l Planning Agency, Regional Planning Commission Agenda (May 10, 2017), <http://www.tmrpa.org/files/meetings/2017/17-05-10%20RPC%20Final%20Packet.pdf>. Reno-Stead Airport leases and other contracts typically provide that the lessee or other user will relinquish operational use of common areas during airport closure for these events, and cooperate with the FAA and Reno Air Racing Association for special aircraft ingress and egress, without compensation or rent reduction.

48. Pia Bergqvist, *100-Year-Old Airport to Be Destroyed*, FLYING MAG. (Jan. 10, 2019), <https://www.flyingmag.com/marlboro-airport-closing>.

49. Settlement Agreement, *City of Newport Beach v. FAA*, Nos. 17-1008, -1009 (D.C. Cir. Jan. 2018), <http://www.newportbeachca.gov/home/showdocument?id=57663>.

[newportbeachca.gov/home/showdocument?id=57663](http://www.newportbeachca.gov/home/showdocument?id=57663).

50. *Phase II Terminal Area Improvements*, LONG BEACH AIRPORT, http://www.lgb.org/information/phase_ii_terminal_area_improvements.asp (last visited June 10, 2019); *A Sustainable Long Beach Airport*, LONG BEACH OFF. MAYOR (Aug. 15, 2018), <http://www.longbeach.gov/mayor/news/sustainable-airport/>.

51. *Master Plan*, GLACIER PARK INT'L AIRPORT, <https://iflyglacier.com/business-development/master-plan/> (last visited June 10, 2019).

52. The Santa Monica Airport Association is working for the Airport's continuance as an airport. See *SMO's Future*, SANTA MONICA AIRPORT ASS'N, http://www.santamonicaairport.info/smos_future (last visited June 10, 2019).

53. In 2014, general aviation contributed \$38.8 billion to the national economy, with \$3.8 billion, or 10 percent, deriving from facilities in California. FAA, *THE ECONOMIC IMPACT OF CIVIL AVIATION ON THE U.S. ECONOMY 13* (2017), https://www.faa.gov/about/plans_reports/media/2017-economic-impact-report.pdf.