



# TOWN OF EAST HAMPTON

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FOR IMMEDIATE RELEASE

August 8, 2023

## **Payments from Airport Fund by East Hampton Town for Legal Fees in Airport Litigation Ruled Admissible by Justice Baisley of Suffolk Supreme Court**

*Town continues to vigorously defend against litigation driven by aviation interests in fight to manage and regulate the East Hampton Town Airport in accordance with what the community wishes*

As litigation that has prevented the Town of East Hampton from implementing use restrictions to address traffic, noise, and environmental issues at East Hampton Town Airport continues, a recent court decision has affirmed the Town's position that associated legal fees may be paid from the Town's Airport Fund. The Town has been using the revenues raised by airport user fees, rather than other taxpayer dollars, to defend its position regarding the airport.

On August 3, 2023, Justice Paul J. Baisley, Jr. of Suffolk Supreme Court denied a motion by litigants East End Hangars, Inc. and Hampton Hangers, Inc. to require the Town's legal counsel on airport litigation to return to the Town's Airport Fund fees they received for work performed after May 16, 2022.

The litigants had filed suit in February 2022, contending that the Town of East Hampton did not properly follow New York State Environmental Quality Review Act regulations when taking steps to deactivate East Hampton Airport (HTO) and reopen the private East Hampton Town Airport (JPX), which would have enabled the imposition of use restrictions.

On May 16, 2022, Justice Baisley issued a temporary restraining order, and on October 19, 2022, ruled in favor of the litigants and issued an order enjoining the Town from deactivating or closing East Hampton Airport (HTO). Because the deactivation of HTO was already underway, the Federal Aviation Administration determined that the process could not be safely stopped or undone at that time, and the FAA proceeded to deactivate HTO and activate JPX.

Thereafter, the petitioners claimed that the temporary restraining order precluded payment of legal fees from the Airport Fund, and sought a ruling to require that Cooley LLP, Whiteman Osterman & Hanna LLP, and Rigano LLC return to the Airport Fund any fees they had received

for work performed after the date of the temporary restraining order. In response to this legally baseless motion, the Town argued that the FAA previously had determined that airport funds may be used for legal fees.

In his ruling last week, Justice Baisley agreed and denied the aviation interests' motion. In his opinion, Justice Baisley cites the FAA's findings in a prior proceeding, *National Business Aviation Association, Inc., et al., v. Town of East Hampton*, stating that "[t]he presumptive rule is that fees related to airport legal issues may be paid with airport revenue." Justice Baisley relied on the FAA's determination that "a sponsor may use airport revenue to pay attorney fees to the extent that fees are for service in support of the airport or operating costs," and held that the Town's legal counsel did not need to return any fees to the Airport Fund.

The ongoing litigation concerning the airport has impeded the Town's goal of managing and regulating its airport to reflect the desires of the community and ability to respond to community concerns about the airport. The Town has vigorously defended the litigation, largely driven by commercial aviation interests.

The Town's appeals of Justice Baisley's grant of a permanent injunction preventing the Town from deactivating or closing HTO and holding the Town in contempt for violations of the temporary restraining order are currently pending before the Appellate Division.