



# TOWN OF EAST HAMPTON

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## **F.A.A. AFFIRMS TOWN OF EAST HAMPTON'S RIGHT TO FUND LITIGATION WITH AIRPORT REVENUE**

The Federal Aviation Administration (F.A.A.) affirmed the Town of East Hampton's right to use Airport revenue to fund a legal defense resulting from the adoption of local laws to reduce noise. In a determination dated March 26, the F.A.A. ruled that the town was within its rights and that using airport revenue to "litigate in court ... matters related to the operations of the airport, which includes addressing noise issues, real, perceived, justified or not, is not a violation" of grant assurance agreements with the F.A.A.. Airport revenue may be used for operating costs of an airport, which includes fees "related to airport-related legal issues," the F.A.A. said in its ruling.

In a Part 16 complaint filed with the FA.A. on May 20, 2015, the National Business Aviation Association (NBAA) along with a number of aviation companies had charged that the Town violated Grant Assurance 25 (revenue diversion) by using airport revenue to fund the litigation related to the Town's proposed local laws. The NBAA went on to argue that "the Town is obligated to draw upon general funds and its tax base and not airport funds if it is to pursue an anti-airport agenda."

In the Director's Determination dated March 26, 2018, the F.A.A. ruled that the town was within its rights, stating, "An airport sponsor may incur legal costs by enacting management or operational actions which may ultimately be found to be contrary to the airport's federal obligations, but that is part of operating an airport ... This is true if the actions by the airport sponsor are perceived as 'wrong' by some or 'right' by others." The F.A.A. Determination finally puts to rest questions that were raised during the town election last fall regarding the proper source of revenue for the Airport's legal fees.

The Town remains strongly committed to addressing the impacts of noise generated by East Hampton Airport. Currently, the Town of East Hampton is preparing a formal application through the F.A.A.'s Part 161 process -- the purpose of which is to seek approval of reasonable use and access restrictions at East Hampton Airport in order to provide meaningful noise relief. The 2015 laws to reduce noise were ultimately struck down by the court until such time that the Town complies with the requirements of Part 161.

The F.A.A. also noted in its determination that the use of airport revenues for the Part 161 application is an authorized expenditure.

“The East Hampton Airport, while serving an important role in transportation to and from the East End, particularly in case of emergencies, nonetheless impacts the quality of life for numerous residents because of noise from aircraft, particularly helicopters. The ability to enact reasonable local laws, such as an overnight airport curfew – and defend them in court – is key to striking a balance that allows the airport to remain open under local control while also considering the needs of town residents,” commented East Hampton Town Supervisor Peter Van Scoyoc.

Town Councilwoman Kathee Burke-Gonzalez, former liaison to East Hampton Airport, stated, “The Director’s Determination validated what we have known all along – the Town has every right to use Airport revenue to take legal actions or defend against them.”

“This is the outcome that was expected based on other airports’ use of their generated revenue. It is a gratifying conclusion as we move forward with the Part 161 process,” said Town Councilwoman Sylvia Overby, who, with Councilman Jeff Bragman, now serves as airport liaison.