



March 18, 2022

Via Electronic Mail

Town Clerk Carole Brennan
159 Pantigo Road
East Hampton, NY 11937
EHAirportScope@eamptonny.gov
cbrennan@eamptonny.gov

RE: East Hampton Airport (HTO) – Proposed Prior Permission Required (PPR) Framework

Dear Ms. Brennan:

The Aircraft Owners and Pilots Association (AOPA), Eastern Region Helicopter Council (ERHC), Helicopter Association International (HAI), General Aviation Manufacturers Association (GAMA), National Air Transportation Association (NATA) and the National Business Aviation Association (NBAA) acknowledge the Town's efforts to find a path to preserve East Hampton Airport (HTO) and respectfully submit these comments in response to the proposals for operational restrictions that recently were discussed by the Town Board, including the presentation by the Town's external counsel, Cooley LLP, that was made at the Board's March 1 meeting ("SEQRA Study Phase and Data Collection – Proposed PPR Framework for 2022 Season").

We understand that the Town has been in communication with the Federal Aviation Administration (FAA) regarding the logistics of how the Town might close/deactivate HTO and then open a "new" airport, but that the FAA has not opined on whether doing so would necessarily provide the Town the "local control" that its external counsel has claimed would follow. It is our understanding that despite the logistically risky conversion process to allegedly private-use status, the Town would not gain the ability to implement a Prior Permission Required (PPR) program and thus would not be able to institute desired restrictions.

In its February 2, 2022 letter to the Town, the FAA cautioned that the proposition that "the Federal exclusive rights, revenue use, and civil rights obligations are extinguished by closing the airport and opening a new airport using the same location and same facilities is unsettled" – and further emphasized that the Town had declined to provide any statutory or case law in support of the proposition. We respectfully submit there is simply no authority for the notion that a paper closure of an airport "extinguishes" those obligations, and there are still other federal requirements that will clearly remain in effect, including the Airport Noise and Capacity Act of 1990 (ANCA) and FAA preemption (both statutory and implied). As a consequence, the Town would be well-advised to

suspend its consideration of all of the proposals currently under review and also to withdraw its submissions on Form 7480-1 to deactivate HTO and open a “new” airport.

We invite the Town to collaboratively work together with the aviation industry, the FAA and neighboring communities to develop solutions to address the Town’s concerns that actually can be implemented. Among other options, the Town should consider whether Subpart B of Part 161 of FAA’s regulations, which authorizes voluntary agreements between airport users and proprietors, provides an overlooked opportunity. We understand that the Town’s external counsel previously has mentioned Subpart B, but erroneously stated that such an agreement would not bind new entrants. That is not an accurate representation. Although the negotiation of a Subpart B agreement might present challenges, the Town should not be discouraged from engaging with HTO tenants and users who stand ready to engage and pursue this path which also has the support of the FAA.

We also advise caution by the Town in its of consideration of the various PPR proposals that have been put forward. For all of them, virtually no detail has been provided, and thus significant questions remain about exactly how they would be put into effect and whether they would be effective in addressing the Town’s concerns – including, but not limited to whether they would have “spillover” effects due to diversions to other airports, thus significantly impacting other communities on eastern Long Island. Generally, we strongly recommend that the Town carefully consider the feedback that is expected to be provided in this proceeding, and further engage with HTO tenants and aviation users.

Finally, faced with great capital improvement needs after decades of minimal maintenance, the airport currently requires significant investment to be maintained and operated in a safe manner. We are concerned the proposed restrictions will cause the airport to struggle to raise enough revenue to be self-sustainable.

We recognize that we are at a unique juncture, following the expiration of the grant assurances and the challenge of identifying the best path for the airport’s future given the statutory obligations and ANCA that we understand to still remain in effect. We likewise recognize the challenge of navigating the uncharted path to preserve the airport while responding to requests to reduce volume and frequency of operations. Our national and regional organizations are looking forward to engaging with the town and the FAA to seek common ground for a solution that would balance the benefits of both commerce and noise-sensitive operations.

Thank you for consideration.

Sincerely,

Aircraft Owners and Pilots Association
Eastern Region Helicopter Council
General Aviation Manufacturers Association
Helicopter Association International
National Air Transportation Association
National Business Aviation Association

CC:

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