

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRIENDS OF THE EAST HAMPTON AIRPORT, INC.,
ANALAR CORPORATION, ASSOCIATED AIRCRAFT
GROUP, INC., ELEVENTH STREET AVIATION LLC,
HELICOPTER ASSOCIATION INTERNATIONAL, INC.,
HELIFLITE SHARES LLC, LIBERTY HELICOPTERS,
INC., SOUND AIRCRAFT SERVICES, INC., and
NATIONAL BUSINESS AVIATION ASSOCIATION, INC.,

No. 15 Civ. 2246 (SJF) (ARL)

Plaintiffs,

-against-

THE TOWN OF EAST HAMPTON,

Defendant.

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DECLARATION OF CHRIS VELLIOS

I, Chris Vellios, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am the Chief Operating Officer and Chief Financial Officer of Liberty Helicopters, Inc. (“Liberty”), one of the Plaintiffs in this action.

2. I make this declaration, based on personal knowledge, in support of Plaintiffs’ application for a temporary restraining order enjoining the Town of East Hampton’s recently-enacted restrictions on access to the East Hampton Airport (“the Airport” or “HTO”).

Background of Liberty

3. Liberty is a business corporation duly organized and existing under the laws of the State of New York, with a principal office located at 165 Western Road, Kearny, New Jersey 07032. Liberty was founded in 1986. Liberty is a wholly-owned subsidiary of Sightseeing Tours of America, Inc. (“STA”).

4. Liberty provides “on demand” helicopter charter services, transporting passengers to and from various destination points in New York, New Jersey, Pennsylvania, Connecticut, Maryland and Massachusetts. Liberty operates 11 helicopters that it uses in its charter service, consisting of following helicopter models: Airbus AS350B2, Airbus AS355F1, and Airbus AS355F2. Liberty shares these same 11 helicopters with its sister company, Liberty Helicopters, Inc. (N.Y.), which offers sightseeing tours.

5. Liberty holds a Part 135 certification conferred by the Federal Aviation Administration (“FAA”). This Part 135 certification authorizes Liberty to provide operations for compensation or hire. Liberty also has authorization from the Department of Transportation to provide interstate air transportation. Pursuant to Part 135, Liberty complies with various FAA requirements and safety standards, including those related to flight operations, maintenance, and training.

6. STA has between 95 and 100 employees, depending on the season. STA’s employees work for both Liberty and Liberty’s sister company.

Liberty’s Operations to and from HTO

7. Flights to and from HTO are critical to Liberty’s business. Many of Liberty’s customers reside in East Hampton or have summer homes there, and rely on helicopter charter service for their transportation needs. Flights to and from HTO account for between 45% and 50% of Liberty’s annual revenue.

8. Moreover, 90% of Liberty’s revenue from flights to and from HTO is generated between the months of May and September. In 2014, Liberty made 1,326 trips to HTO, a substantial portion of which were between May and September. Operationally, during the

summertime it is common for Liberty to use the same helicopter aircraft to make multiple trips to and from the Airport in a single day, or in the same week.

East Hampton's Recently-Enacted Restrictions

9. I understand that on April 16, 2015, the Town Board adopted three new local laws restricting access to HTO (“the Restrictions”). I am familiar with the Restrictions.

10. I understand that the Restrictions include (1) a mandatory curfew, prohibiting use of HTO between 11:00 p.m. and 7:00 a.m. (the “Mandatory Curfew”); (2) an extended curfew for so-called “Noisy Aircraft” banning use of the Airport from 8:00 p.m. to 9:00 a.m. (“the “Extended Curfew”); and (3) a one-trip limit during the summer, prohibiting “Noisy Aircraft” from flying more than one trip per week to HTO during the summer season (the “One-Trip Limit”). I further understand that the Restrictions define “Noisy Aircraft” as including any aircraft that has a published Effective Perceived Noise in Decibels (EPNdB) approach (AP) level of 91.0 or greater.

11. All of the helicopters in Liberty’s fleet are subject to the “Noisy Aircraft” definition. The Airbus AS350B2 has an EPNdB AP level of 91.4; the Airbus AS355F1 has an EPNdB AP level of 93.2; and the Airbus AS355F2 has an EPNdB AP level of 93.4.

12. The EPNdB AP levels for Liberty’s fleet do not accurately indicate the actual noise impact generated by Liberty’s helicopters during arrivals and takeoffs at HTO on the surrounding residential area. Liberty’s pilots abide by the Airport’s voluntary noise abatement procedures, unless otherwise directed by air traffic control or responding to inclement weather. As part of those procedures, Liberty’s helicopters (1) maintain high altitudes when approaching HTO; (2) climb quickly when departing HTO; (3) avoid having the rotors turning when passengers board and deplane; and (4) avoid operating the rotors for more than five minutes

while on the airport ramp. All of these procedures significantly reduce the actual noise impact of Liberty's helicopters.

13. Liberty will be subject to all three of the Restrictions. It will immediately be subject to both the Mandatory Curfew and Extended Curfew, which will prohibit Liberty from accessing the Airport between 8:00 p.m. and 9:00 a.m., year-round. The One-Trip Limit will further bar Liberty from accessing HTO more than once per week during the summer—Liberty's busiest season.

The Restrictions' Impact on Liberty

14. The Restrictions will severely impact Liberty's business and force Liberty to reduce its staff and make other changes to try and maintain its viability.

15. The One-Trip Limit will severely harm Liberty, and effectively shut down Liberty's ability to provide charter flights to and from HTO during the summer—Liberty's busiest season.

16. Under the One-Trip Limit, the maximum number of trips Liberty could fly to or from the Airport during the summer will be reduced to at most 11 trips per week (one per each of Liberty's 11 helicopters). In all likelihood, under the One-Trip Limit, Liberty would be operationally unable to make even 11 per week. As indicated above, Liberty shares its fleet of 11 helicopters with a sister business that uses the helicopters for sightseeing tours in Manhattan. Because Liberty's helicopters are thus often booked for other flight services by that other company, it would be operationally difficult if not impossible for Liberty to use a different helicopter for each, single trip to HTO.

17. For a charter business like Liberty, the One-Trip Limit is nothing short of devastating. It will effectively curtail our ability to service customers who fly to and from HTO, many of whom are longtime customers.

18. The Extended Curfew will also have a significant negative impact on Liberty's business. Based upon when Liberty's customers fly to and from HTO, I estimate that the Extended Curfew alone will prohibit approximately 25% of Liberty's flights to and from the Airport.

19. If the Restrictions take effect, Liberty anticipates losing possibly as much as 50% of its revenue.

20. Currently, STA employs 25 full-time pilots and 7 part-time pilots, who fly both charter and sightseeing operations. Liberty projects that if the Restrictions take effect, STA will be forced to lay off as many as 5 full-time pilots and 5 part-time pilots. In addition, STA likely would need to reduce its administrative staff, including dispatch operators and members of its maintenance team.

21. If the Restrictions take effect, Liberty also anticipates losing significant market share, as customers traveling to and from HTO may elect to travel by aircraft and other means of transportation not subject to the Restrictions. Even if the Restrictions were later lifted, Liberty will have been permanently harmed, as its customers might not return.

22. The debate surrounding the Restrictions and the passage of the Restrictions by the Town have already harmed Liberty. Liberty offers its clients travelling to and from HTO the opportunity to prepay in May of each year for the upcoming summer season. Past customers have already indicated to me that they will delay in making prepayments until the accessibility of

HTO is resolved. If the Restrictions are enforced, Liberty will lose this revenue as well, which is projected to be between \$120,000–\$150,000 for the 2015 season.

23. If the Restrictions take effect, the other airports in Long Island, including Montauk Airport (“Montauk”), Francis S. Gabreski Airport in Westhampton (“Gabreski”), and the Southampton Heliport (“Southampton”) are inadequate alternatives to HTO, and will not alleviate the serious economic and operational harm that Liberty will suffer.

24. Montauk is more than 20 miles east of HTO and does not provide fueling services, which is a problem due to Montauk’s distance from Manhattan. If Liberty were to make a trip with six passengers to Montauk, Liberty would need to refuel before making another flight. However, to avoid being subject to the One-Trip Limit, Liberty’s only fueling option is Gabreski. Therefore, the Restrictions will cause Liberty to incur greater operational costs to fly to Montauk as well as additional landing fees at Gabreski for the sole purpose of refueling. Southampton consists of one helipad, does not have fueling services, and only allows helicopters to remain on the helipad for five minutes. Gabreski is more than 25 miles west of HTO. Liberty’s clients who land at Gabreski would then have to drive via Route 27—which is heavily congested during the summer—to get to East Hampton. My clients have informed me that they will likely forego the expense of flying into Gabreski if they will still face heavy traffic en route to East Hampton.

25. Furthermore, if the Restrictions go into effect, it is unclear whether Southampton, Montauk and Gabreski would even have the capacity or ability to accommodate helicopter traffic that can no longer land at HTO—which for years has been the main airport hub on the East End for helicopter services.

26. Finally, in addition to harming Liberty and other HTO users, the Restrictions will

harm HTO itself. The Restrictions will have the effect of significantly reducing HTO's revenues, which will in turn deprive HTO of funds desperately needed to maintain the Airport in good repair. Even prior to its enactment of the Restrictions, the Town had failed, and continues to fail, to maintain HTO in proper condition as required by federal law. For this reason, on January 29, 2015, Liberty and others filed an administrative complaint with the FAA, alleging that the Town has violated its federal grant assurances (specifically, Grant Assurance 19.a) by, among other things, failing to remove obstructions to runways, allowing runways to deteriorate, and failing to maintain an effective perimeter fence. *See Friends of the East Hampton Airport, Inc. et al. v. East Hampton Airport*, FAA Docket No. 16-15-02 (2015). That administrative complaint is pending. If the Restrictions are enforced, then HTO's revenues—which are currently the only source of funding for Airport maintenance—will plummet, causing HTO to fall further into disrepair.

27. If the Restrictions take effect, Liberty will be seriously and immediately harmed. The threat of losing nearly half of its revenue will force Liberty and STA to make stark choices, including laying off employees and incurring significant expenses to acquire aircraft that comply with the Town's arbitrary "Noisy Aircraft" standard.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: April 28, 2015
Kearny, NJ



Chris Vellios