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June 1, 2015

By ECF

The Honorable Joanna Seybert
United States District Court
100 Federal Plaza
Central Islip, New York 11722

Re: *Friends of the East Hampton Airport, Inc. v. Town of East Hampton*,
No. 15 Civ. 2246 (JS) (ARL)

Dear Judge Seybert:

We represent the Committee to Stop Airport Expansion, Pat Trunzo, Jr., and Pat Trunzo, III (together, the "Committee").

The Committee has this day filed a motion to file amicus curiae brief in the above action. This is to request that the Court set an expedited schedule whereby the motion may be determined and, if the motion granted, the parties may respond to the proposed amicus brief prior to the Court ruling on plaintiffs' pending motion for preliminary relief.

The Committee seeks to present a crucial argument as yet ignored or only indirectly addressed by the parties: *National Helicopter Corp. of Am. v. City of New York*, 137 F.3d 81, 88-89 (2d Cir. 1998) *specifically* ruled that the proprietor exception applies to *both* the express preemption provisions of the Airline Deregulation Act *and* the implied preemption of noise regulation by the Airport Noise and Capacity Act of 1990 ("ANCA") and other aviation statutes. Plaintiffs' claim that in *National Helicopter* the Second Circuit "did not address" ANCA is completely wrong. Far from not mentioning ANCA, the Court of Appeals deliberately referenced the "Airport Noise and Capacity Act" as one among several "acts implying preemption of noise regulation at airports." 137 F.3d at 88.

The Committee is a non-profit citizens group with extremely limited resources. It has acted diligently to form a legal team to address plaintiffs' demand for preliminary relief ever since the May 18 hearing on plaintiffs' application for a temporary restraining order, at which time the Court indicated that by June 8 it would rule on a preliminary injunction. At the same time, the Committee has expeditiously sought to intervene in *Friends of East Hampton Airport v. FAA*, No. CV-15-441 (JS) (ARL), the action seeking to upend the 2005 agreement between the

Committee and the United States in a prior lawsuit before Your Honor concerning noise pollution at the East Hampton Airport. *See* FAA Action ECF Docket # 25 (Committee's Memorandum in Support of Motion to Intervene).

The proposed amicus brief addresses a critical but straightforward issue in less than four pages of argument. The amply-funded existing parties would face no prejudice in promptly formulating whatever responses they may wish to assert.

For these reasons, the Committee requests that the Court exercise its discretion to set a schedule to allow for consideration of the Committee's amicus submission in advance of any determination as to plaintiffs' demand for preliminary relief. *See* Fed. R. Civ. Pro. 6(c)(1)(C).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Ogden', written in a cursive style.

Thomas P. Ogden