

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 (JS) (ARL)

Plaintiffs,

-against-

THE TOWN OF EAST HAMPTON,

Defendant.  
-----X

**DEFENDANT'S ANSWER TO THE AMENDED COMPLAINT**

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Attorneys for Defendant, the Town of East Hampton

The Town of East Hampton, New York (the “Town”), by and through counsel, pursuant to F.R. Civ. P. Rules 7, 8, and 12, responds to the allegations of the Complaint as amended (“Complaint”) filed by 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. (collectively “Plaintiffs”) as set forth in the numbered paragraphs below. The Town denies all allegations contained in the Complaint except to the extent such allegations are specifically admitted in this Answer.

### **Introduction**

1. In response to the allegations in Paragraph 1 of the Complaint, the Town admits only that Plaintiffs have filed suit in the U.S. District Court for the Eastern District of New York and that the terms of that action speak for themselves. The Town otherwise denies the allegations in Paragraph 1.

2. The Town admits only that East Hampton Airport is a public-use, general aviation airport that has been used by commercial and recreational aeronautic users and that the Airport is currently on FAA’s plan for the development of public-use airports in the United States, named the “national plan of integrated airport systems” or NPIAS and has therefore been eligible to receive federal funds. The Town otherwise denies the allegations of Paragraph 2 of the Complaint.

3. The Town admits that it owns and operates the East Hampton Airport as a local proprietor, admits that the scope of its powers as proprietor of the Airport is limited by certain federal law and otherwise denies the allegations of Paragraph 3 of the Complaint.

4. The Town denies the allegations in Paragraph 4 of the Complaint.

5. The Town denies the allegations in Paragraph 5 of the Complaint.

6. The Town denies the allegations in Paragraph 6 of the Complaint.

7. In response to the allegations of Paragraph 7 of the Complaint, the Town admits only that the three airport laws adopted on April 16, 2015, (the “Local Laws”) restrict operations by certain aircraft under certain conditions as specified in the Local Laws, but otherwise denies the allegations of Paragraph 7.

8. The Town denies the allegations in Paragraph 8 of the Complaint.

9. The Town denies the allegations in Paragraph 9 of the Complaint.

10. The Town denies the allegations in Paragraph 10 of the Complaint.

11. In response to the allegations in Paragraph 11 of the Complaint, the Town admits only that Plaintiffs have filed the pending suit and the terms of Plaintiffs’ prayer for relief speak for themselves. The Town specifically denies that Plaintiffs are entitled to any relief.

**The Parties**

12. The Town is without sufficient information to admit or deny the allegations regarding the nature of the organization, purpose, and membership of the Friends of the East Hampton Airport, but states that it does not contest these allegations. The Town otherwise denies the allegations in Paragraph 12 of the Complaint.

13. The Town is without sufficient information to admit or deny the allegations regarding the nature of the organization, purpose, and membership of Anlar Corporation, but states that it does not contest these allegations. The Town otherwise denies the allegations in Paragraph 13 of the Complaint.

14. The Town is without sufficient information to admit or deny the allegations regarding the nature of the organization, purpose, and membership of Associated Aircraft Group,

Inc., but states that it does not contest these allegations. The Town otherwise denies the allegations in Paragraph 14 of the Complaint.

15. The Town is without sufficient information to admit or deny the allegations regarding the nature of the organization, purpose, and membership of Eleventh Street Aviation LLC, but states that it does not contest these allegations. The Town otherwise denies the allegations in Paragraph 15 of the Complaint.

16. The Town is without sufficient information to admit or deny the allegations regarding the nature of the organization, purpose, and membership of Helicopter Association International, Inc., but states that it does not contest these allegations. The Town otherwise denies the allegations in Paragraph 16 of the Complaint.

17. The Town is without sufficient information to admit or deny the allegations regarding the nature of the organization, purpose, and membership of HeliFlite Shares LLC, but states that it does not contest these allegations. The Town otherwise denies the allegations in Paragraph 17 of the Complaint.

18. The Town is without sufficient information to admit or deny the allegations regarding the nature of the organization, purpose, and membership of Liberty Helicopters, Inc., but states that it does not contest these allegations. The Town otherwise denies the allegations in Paragraph 18 of the Complaint.

19. The Town admits that Sound Aircraft Services is a fixed-base operator that leases airport property from the Town. The Town otherwise denies the allegations in Paragraph 19 of the Complaint.

20. The Town is without sufficient information to admit or deny the allegations regarding the nature of the organization, purpose, and membership of the National Business

Aviation Association, Inc., but states that it does not contest these allegations. The Town otherwise denies the allegations in Paragraph 20 of the Complaint.

21. The Town admits the allegations in Paragraph 21 of the Complaint.

**Jurisdiction and Venue**

22. The Town admits the allegations of Paragraph 22 of the Complaint.

23. The Town admits the allegations of Paragraph 23 of the Complaint.

**Pertinent Law**

24. In response to the allegations of Paragraph 24 of the Complaint, the Town states that the federal aviation laws speak for themselves and that the scope of preemption is a question of law for the Court to decide. The Town otherwise denies all allegations in Paragraph 24 inconsistent with the terms of the federal aviation laws.

25. In response to the allegations of Paragraph 25 of the Complaint, the Town states that the federal aviation laws speak for themselves and denies all allegations in Paragraph 25 inconsistent with the terms of those laws.

26. In response to the allegations of Paragraph 26 of the Complaint, the Town states that the federal aviation laws and FAA regulations speak for themselves. The Town denies all allegations in Paragraph 26 inconsistent with the terms of those laws.

27. In response to the allegations of Paragraph 27 of the Complaint, the Town admits only that local governments are preempted from regulating or controlling aircraft in flight and that local governments must comply with applicable federal law. The Town otherwise denies the allegations of Paragraph 27.

28. In response to the allegations of Paragraph 28 of the Complaint, the Town states that terms of 49 U.S.C. § 41713(b) speak for themselves as a matter of law and denies all allegations of Paragraph 28 inconsistent with the terms of that statute.

29. In response to the allegations of Paragraph 29 of the Complaint, the Town admits only that it may adopt local rules affecting access to the Airport to the extent the local laws comply with applicable federal law and are otherwise reasonable, non-arbitrary, and non-discriminatory. The Town otherwise denies the allegations of Paragraph 29.

30. The Town denies the allegations of Paragraph 30 of the Complaint.

31. The Town denies the allegations of Paragraph 31 of the Complaint.

32. The Town denies the allegations of Paragraph 32 of the Complaint.

**A. Noise Control – The Airport Noise and Capacity Act**

33. In response to the allegations of Paragraph 33 of the Complaint, the Town states that the terms of the Airport Noise and Capacity Act (“ANCA”) speak for themselves. The Town denies all allegations in Paragraph 33 inconsistent with the terms of the statute.

34. In response to the allegations of Paragraph 34 of the Complaint, the Town admits only that prior to ANCA’s enactment in 1990, federal laws addressed the topics identified in Paragraph 34 and that the terms of those laws speak for themselves. The Town otherwise denies all allegations of Paragraph 34 inconsistent with those laws.

35. In response to the allegations of Paragraph 35 of the Complaint, the Town admits that FAA has classified most aircraft into “Stages” based on their ability to operate beneath specified noise levels. The “Stage” classification for any given aircraft is a function of a number of factors, including aircraft weight and noise levels. Generally, for stage-rated aircraft of similar weights, Stage 1 aircraft emit the most noise, and Stage 2, 3, and 4 aircraft emit less noise

than aircraft with lower Stage ratings. The Town otherwise denies the allegations of Paragraph 35.

36. In response to the allegations of Paragraph 36 of the Complaint, the Town admits that Congress enacted ANCA in 1990 and that the terms of ANCA speak for themselves. The Town otherwise denies all allegations in Paragraph 36 inconsistent with the terms of ANCA. The Town specifically denies that ANCA applies to all airports in the United States.

37. In response to the allegations of Paragraph 37 of the Complaint, the Town admits only that the terms of ANCA speak for themselves and otherwise denies all allegations in Paragraph 37 inconsistent with the terms of ANCA.

38. The Town denies the allegations of Paragraph 38 of the Complaint.

**ANCA Requirements for Stage 2 Aircraft**

39. In response to the allegations of Paragraph 39 of the Complaint, the Town admits only that a local restriction on Stage 2 aircraft must comply with ANCA's procedures to the extent the airport proprietor wants to continue to receive or remain eligible for federal aviation grants. The Town otherwise denies the allegations of Paragraph 39.

40. In response to the allegations of Paragraph 40 of the Complaint, the Town admits only that a local restriction on Stage 2 aircraft must comply with ANCA's procedures to the extent the airport proprietor wants to continue to receive or remain eligible for federal aviation grants. The Town otherwise denies the allegations of Paragraph 40.

41. In response to the allegations of Paragraph 41 of the Complaint, the Town admits only that a local restriction on Stage 2 aircraft must comply with ANCA's procedures to the extent the airport proprietor wants to continue to receive or remain eligible for federal aviation grants. The Town otherwise denies the allegations of Paragraph 41.

**ANCA Requirements for Stage 3 and Stage 4 Aircraft**

42. In response to the allegations of Paragraph 42 of the Complaint, the Town admits only that a local restriction on Stage 3 aircraft must comply with ANCA's procedures to the extent the airport proprietor wants to continue to receive or remain eligible for federal aviation grants. The Town otherwise denies the allegations of Paragraph 42.

43. In response to the allegations of Paragraph 43 of the Complaint, the Town admits only that a local restriction on Stage 3 aircraft must comply with ANCA's procedures to the extent the airport proprietor wants to continue to receive or remain eligible for federal aviation grants. The Town otherwise denies the allegations of Paragraph 43.

44. In response to the allegations of Paragraph 44 of the Complaint, the Town admits only that a local restriction on Stage 4 aircraft must comply with ANCA's procedures to the extent the airport proprietor wants to continue to receive or remain eligible for federal aviation grants. The Town otherwise denies the allegations of Paragraph 44.

45. In response to the allegations of Paragraph 45 of the Complaint, the Town admits only that a local restriction on Stage 3 or Stage 4 aircraft must comply with ANCA's procedures to the extent the airport proprietor wants to continue to receive or remain eligible for federal aviation grants. The Town otherwise denies the allegations of Paragraph 45.

**B. Federal Funding – The Airport and Airway Improvement Act of 1982**

46. The Town admits the allegations of Paragraph 46 of the Complaint.

47. In response to the allegations of Paragraph 47 of the Complaint, the Town admits only that the terms of the Airport and Airway Improvement Act of 1982 ("AAIA") speak for themselves and otherwise denies all allegations in Paragraph 47 inconsistent with the terms of the AAIA.

48. In response to the allegations of Paragraph 48 of the Complaint, the Town admits that the terms of the AAIA speak for themselves and otherwise denies all allegations in Paragraph 48 inconsistent with the terms of the AAIA.

49. The Town admits the allegations in Paragraph 49 of the Complaint.

50. In response to the allegations of Paragraph 50 of the Complaint, the Town admits only that Paragraph 50 contains a correct restatement of Grant Assurance 22.a and otherwise denies all allegations in Paragraph 50 inconsistent with the terms of the Grant Assurances.

51. In response to the allegations of Paragraph 51 of the Complaint, the Town admits only that Paragraph 51 contains a correct restatement of Grant Assurance 19.a and otherwise denies all allegations in Paragraph 51 inconsistent with the terms of the Grant Assurances.

52. In response to the allegations of Paragraph 52 of the Complaint, the Town admits only that Paragraph 52 contains a correct restatement of Grant Assurance 23 and otherwise denies all allegations in Paragraph 52 inconsistent with the terms of the Grant Assurances.

53. The Town denies the allegations of Paragraph 53 of the Complaint.

54. The Town denies the allegations of Paragraph 54 of the Complaint.

### **Pertinent Facts**

#### **A. East Hampton Airport**

55. The Town is without sufficient information to admit or deny the allegations in Paragraph 55 of the Complaint because Town planning documents contain differing and conflicting information. For example, a 2002 Environmental Assessment prepared for the Town states that “The East Hampton Airport has been in existence since 1942, when the East Hampton Town Board entered into an agreement with the United States relative to the operation and maintenance of the airport. This agreement was aimed at increasing the national defense during

World War II.”<sup>1</sup> By contrast, a Master Plan Report from the 1980’s states: “East Hampton Airport was built in 1936. Suffolk County acquired the property through tax sale and shortly thereafter turned the airport over to the Town of East Hampton.”<sup>2</sup>

56. The Town is without sufficient information to respond to the allegations in the first two sentences of Paragraph 56 of the Complaint because it does not have deed and easement information for each residential property near the Airport. However, the Town states that it has acquired the majority of real estate in the vicinity of the Airport for open space and aquifer protection. The Town further states that the only significant amount of residential development in the immediate area of the Airport is on the south and southwest side of the Airport, where there are residential properties located close to the Airport. The Town admits the allegations in the final sentence of Paragraph 56, but notes that the Town of Southhampton immediately abuts the western edge of the Airport property, such that some nearby residences are not subject to the Code of the Town of East Hampton.

57. The Town admits that the Airport has been a public-use airport since its construction; that it has served a variety of charter and recreational users; and, that in the past, commercial airlines (such as East Hampton Aire) have provided scheduled airline services to East Hampton Airport, but no such service has been provided in recent years. The Town otherwise denies the allegations in Paragraph 57 of the Complaint.

58. In response to the allegations of Paragraph 58 of the Complaint, the Town admits the allegations of the first, second, third, and fourth sentences of Paragraph 58. The Town is

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<sup>1</sup> Available at: <http://www.htoplanning.com/docs/Town Documents/021100 SEQRA Environmental Assessment Form and Report, Proposed Adoption of the Updated Airport Layout Plan.PDF>.

<sup>2</sup> Available at: <http://www.htoplanning.com/docs/Town Documents/890000 1989 Master Plan Update for East Hampton Airport.PDF>.

without sufficient information to admit or deny the allegations of the fifth sentence of Paragraph 58. The Town admits the allegations of the sixth sentence of Paragraph 58.

59. The Town admits the allegations in Paragraph 59 of the Complaint. The Town further states that almost 65 percent (3,331 of the 5,148) public-use airports are included in the NPIAS. The other 1,817 existing public-use airports generally are not included in the NPIAS because they do not meet the minimum entry criteria,<sup>3</sup> are located at inadequate sites, cannot be expanded and improved to provide a safe and efficient airport, or are located within 20 miles of another NPIAS airport.<sup>4</sup>

60. The Town admits the allegations of Paragraph 60 of the Complaint.

**B. The Town's Grant Assurances to the Federal Government**

61. The Town admits the allegations in Paragraph 61 of the Complaint.

62. In response to the allegations of Paragraph 62 of the Complaint, the Town admits only that it accepted a federal grant from the Airport Improvement Program fund in 2001 in the amount of \$1,410,000 for rehabilitation of the terminal apron, including drainage and markings, subject to standard FAA grant assurances and otherwise denies the allegations of Paragraph 62.

63. The Town denies the allegations of Paragraph 63 of the Complaint.

**C. The Local Laws Adopted on April 16, 2015**

64. The Town admits that it adopted three Local Laws on April 16, 2015, regulating access to the Airport by certain aircraft and states that the Local Laws speak for themselves with

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<sup>3</sup> See, FAA Order 5090.3C, Field Formulation of the NPIAS (2000) at Chapter 2; available at [http://www.faa.gov/airports/resources/publications/orders/media/planning\\_5090\\_3C.pdf](http://www.faa.gov/airports/resources/publications/orders/media/planning_5090_3C.pdf)

<sup>4</sup> See, FAA, Report to Congress: NPIAS (2015-2019) at 1; available at [http://www.faa.gov/airports/planning\\_capacity/npias/reports/media/npias-2015-2019-report-narrative.pdf](http://www.faa.gov/airports/planning_capacity/npias/reports/media/npias-2015-2019-report-narrative.pdf).

regard to the basis for adoption. The Town otherwise denies the allegations in Paragraph 64 of the Complaint.

65. The Town admits that it properly noticed the Local Laws on February 10, 2015, that the Local Laws have been duly filed with the Secretary of State, and that the Town has agreed to defer enforcement of the Local Laws until this Court acts on the pending motion for a temporary restraining order, but otherwise denies the allegations in Paragraph 65 of the Complaint.

66. The Town admits that it adopted three Local Laws, states that the Local Laws speak for themselves, and denies all allegations of Paragraph 66 inconsistent with the terms of the Local Laws. With regard to the One-Trip-Limit Restriction, the Town notes that, since the filing of the Complaint, the Town has adopted an additional local law formally defining “Season” as the “months of May, June, July, August and September” and modifying the enforcement provisions of the Local Laws<sup>5</sup> and that law has been filed with the Secretary of State.<sup>6</sup> The Town otherwise denies the allegations in Paragraph 66 of the Complaint.

67. The Town admits the allegations of Paragraph 67 of the Complaint.

68. The Town admits that the Local Laws include a sliding scale of fines, additional discretionary fines, and additional mandatory fines for repeat offenders. The Town also clarifies that, following the adoption of Local Law Number 7,<sup>[5]</sup> violations of the Local Laws are deemed to be unclassified violations. Under New York Law, unclassified violations are not crimes. The Town otherwise denies all allegations in Paragraph 68 of the Complaint inconsistent with the terms of the Local Laws.

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<sup>5</sup> Available at: [http://www.htoplanning.com/docs/Town Documents/150507 Resolution 2015-569 \(Amendments to Chapter 75\).PDF](http://www.htoplanning.com/docs/Town Documents/150507 Resolution 2015-569 (Amendments to Chapter 75).PDF)

<sup>6</sup> Available at: <http://www.htoplanning.com/docs/Town Documents/150520 Notice of filing of Local Law No. 7 with Secretary of State.PDF>

69. The Town states that the enforcement terms of the Local Laws – as modified by Local Law Number 7<sup>[5]</sup> – speak for themselves and otherwise denies all allegations in Paragraph 69 of the Complaint inconsistent with the terms of the Local Laws.

70. The Town admits the allegations of Paragraph 70 of the Complaint, but specifically denies that it had any obligation to seek or obtain FAA approval.

71. The Town admits that on April 7, 2015, Councilwoman Burke-Gonzalez issued a statement estimating that the proposed Local Laws would affect:

“- 75% of helicopter operations and 73% of associated complaints on weekends and holidays during the summer season, and  
- 23% of all aircraft operations while addressing 60% of complaints on an annual basis.”<sup>7</sup>

72. The Town admits that in February 2015, while it was still developing the proposed Local Laws, the Town asked the Town’s Budget and Finance Advisory Committee (“BFAC”) to report on whether the Airport would be financially self-sufficient over the long term if the Town Board decided to: (1) implement all four noise Local Laws initially proposed on February 10; (2) finance \$7 million of capital costs over the next five years; and (3) prepare for up to \$3 million of litigation costs. The Town further admits that the Committee was unable to reach a consensus in February 2015 because the variables were “too great and/or further data, research and perspectives from industry experts ... is needed.”<sup>8</sup> The Town also states that it subsequently adopted only three of the four Local Laws that were under consideration in February 2015. The Town otherwise denies the allegations in Paragraph 72 of the Complaint.

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<sup>7</sup> A full copy of the statement is available at: <http://www.htoplanning.com/docs/Town Documents/150407 Airport Statement at Town Board Work Session.PDF>.

<sup>8</sup> A full copy of the BFAC’s report to the Town is available at: <http://www.htoplanning.com/docs/Town - Appointed Committee Documents/150302 Email from A. Malman re BFAC Airport Finance Subcommittee unable to reach consensus.PDF>.

**D. The Local Laws Violate and Conflict with Federal Law and Policy.**

73. The Town denies the allegations in Paragraph 73 of the Complaint.

74. The Town denies the allegations in Paragraph 74 of the Complaint.

75. The Town denies the allegations in Paragraph 75 of the Complaint.

76. The Town denies the allegations in Paragraph 76 of the Complaint.

77. The Town denies the allegations in Paragraph 77 of the Complaint.

78. The Town denies the allegations in Paragraph 78 of the Complaint.

79. The Town denies the allegations in Paragraph 79 of the Complaint.

80. The Town denies the allegations in Paragraph 80 of the Complaint.

81. The Town denies the allegations in Paragraph 81 of the Complaint.

82. The Town denies the allegations in Paragraph 82 of the Complaint.

83. The Town denies the allegations in Paragraph 83 of the Complaint.

84. The Town denies the allegations in Paragraph 84 of the Complaint, and specifically denies that Plaintiffs can seek to enforce Grant Assurance 22.a in this action.

85. The Town denies the allegations in Paragraph 85 of the Complaint, and specifically denies that Plaintiffs can seek to enforce Grant Assurance 19.a in this action.

86. The Town denies the allegations in Paragraph 86 of the Complaint, and specifically denies that Plaintiffs can seek to enforce Grant Assurance 23 in this action.

**E. The Town's Attempt to Avoid Compliance with Federal Law by Relying on a 2005 Settlement Agreement to which the Town was not a Party.**

87. The Town denies the allegations in Paragraph 87 of the Complaint.

88. In response to the allegations of Paragraph 88 of the Complaint, the Town admits that the Committee to Stop Airport Expansion initiated litigation in federal court and also before FAA, and that the litigation initiated by the Committee to Stop Airport Expansion resulted in a

2005 Settlement Agreement between FAA and the Committee and the dismissal of the litigation, that the terms of those legal actions litigation speak for themselves and otherwise denies the allegations in Paragraph 88.

89. The Town admits the allegations of Paragraph 89 of the Complaint.

90. The Town admits the allegations of Paragraph 90 of the Complaint.

91. In response to the allegations of Paragraph 91 of the Complaint, the Town admits that Paragraph 91 correctly quotes portions of the 2005 Settlement Agreement, but otherwise denies all allegations of Paragraph 91 that are inconsistent with the terms of the 2005 Settlement Agreement.

92. The Town admits that it was not a party to the *Committee to Stop Airport Expansion v. Department of Transportation* action and otherwise denies the allegations of Paragraph 92 of the Complaint.

93. The Town admits that the 2005 Settlement Agreement does not mention ANCA and otherwise denies the allegations in Paragraph 93 of the Complaint that are inconsistent with the terms of the 2005 Settlement Agreement.

94. The Town was not a party to the action and is without sufficient information to admit or deny the allegations in Paragraph 94 of the Complaint.

95. The Town denies the allegations of Paragraph 95 of the Complaint

96. The Town states that the terms of Plaintiff's prayer for relief speak for themselves. The Town otherwise denies the allegations in Paragraph 96 of the Complaint.

97. The Town denies the allegations in Paragraph 97 of the Complaint.

98. The Town denies the allegations in Paragraph 98 of the Complaint.

99. The Town denies the allegations in Paragraph 99 of the Complaint.

**F. The Local Laws Will Irreparably Harm Plaintiffs and Other Airport Users**

100. The Town denies the allegations in Paragraph 100 of the Complaint.

101. The Town denies the allegations in Paragraph 101 of the Complaint.

102. The Town denies the allegations in Paragraph 102 of the Complaint.

103. The Town denies the allegations in Paragraph 103 of the Complaint.

**FIRST CLAIM FOR RELIEF**

104. The Town repeats and reiterates its answers to Paragraphs 1 – 103 of the Complaint.

105. The Town states that the Supremacy Clause of the United States Constitution speaks for itself and otherwise denies the allegations in Paragraph 105 of the Complaint.

106. The Town states that the Supremacy Clause of the United States Constitution speaks for itself and otherwise denies the allegations in Paragraph 106 of the Complaint.

107. The Town denies the allegations in Paragraph 107 of the Complaint.

108. The Town denies the allegations in Paragraph 108 of the Complaint.

109. The Town denies the allegations in Paragraph 109 of the Complaint.

110. The Town denies the allegations in Paragraph 110 of the Complaint.

111. The Town denies the allegations in Paragraph 111 of the Complaint.

112. The Town denies the allegations in Paragraph 112 of the Complaint.

113. The Town denies the allegations in Paragraph 113 of the Complaint.

114. The Town denies the allegations in Paragraph 114 of the Complaint.

115. The Town denies the allegations in Paragraph 115 of the Complaint.

**SECOND CLAIM FOR RELIEF**

116. The Town repeats and reiterates its answers to Paragraphs 1 – 115 of the Complaint.

117. The Town states that the Commerce Clause of the United States Constitution speaks for itself. The Town otherwise denies the allegations in Paragraph 117 of the Complaint.

118. The Town admits the allegations of Paragraph 118 of the Complaint.

119. The Town admits the allegations of Paragraph 119 of the Complaint.

120. The Town admits that operations at East Hampton Airport include interstate operations. The Town is without sufficient information to admit or deny the allegations of Paragraph 120 with regard to the allegations about Plaintiffs' passengers, but states that it does not contest the Plaintiffs' statements of the origination and departure points of their respective passengers.

121. The Town denies the allegations in Paragraph 121 of the Complaint.

122. The Town denies the allegations in Paragraph 122 of the Complaint.

123. The Town denies the allegations in Paragraph 123 of the Complaint.

124. The Town denies the allegations in Paragraph 124 of the Complaint.

125. The Town denies the allegations in Paragraph 125 of the Complaint.

126. The Town denies the allegations in Paragraph 126 of the Complaint.

#### **AFFIRMATIVE DEFENSES**

First Affirmative Defense: The Complaint should be dismissed for failure to state a claim upon which relief can be granted.

Second Affirmative Defense: To the extent Plaintiffs seek to enforce any purported obligation of the Town under the Grant Assurances, the Complaint must be dismissed for lack of a private right of action.

Third Affirmative Defense: To the extent Plaintiffs seek to enforce any purported obligation of the Town under the Airport Noise and Capacity Act, the Complaint must be dismissed for lack of a private right of action.

WHEREFORE, the Town respectfully requests that the Court deny Plaintiffs any relief and grant such other and further relief as the Court may deem just and equitable.

Dated: June 19, 2015

Respectfully Submitted,

FARRELL FRITZ, P.C.

KAPLAN KIRSCH & ROCKWELL LLP

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/S/

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Attorneys for the Town of East Hampton

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that he has caused true and correct copies of Defendant's Answer to the Complaint to be served on June 19, 2015, via the Court's electronic filing system upon all counsel of record.

Dated: June 19, 2015

KAPLAN KIRSCH & ROCKWELL LLP

\_\_\_\_\_  
/S/

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