

# The Long Beach Airport Noise Compatibility Ordinance

## CHAPTER 16.43

### *An Historical Perspective*

*Presented by  
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# The Long Beach Airport (LGB)

- In existence since 1923
- Covers 1166 acres
- Surrounded by a mix of commercial, industrial and residential development
- Original terminal built in 1941

# The Long Beach Airport (LGB)

- Designated historical landmark in 1990
- New terminal opened in December 2012
- Approximately 41,000 sq. feet of new construction
- Total terminal size approx. 74,000 sq. feet

# Aircraft Mix

- Air Carrier:** Scheduled carrier operating aircraft 75,000 lbs or more.  
Transporting passengers or cargo
- Commuter:** Scheduled carrier operating aircraft less than 75,000 lbs.  
Transporting passengers or cargo
- Charter:** Revenue producing operation using aircraft more than 75,000 lbs.  
Transporting passengers or cargo

# Aircraft Mix continued

**Industrial:** Aircraft over 75,000 lbs operated for purpose of production, testing, remanufacturing, or delivery. Must be based in Long Beach

**Public Aircraft:** Military aircraft, e.g.

**General Aviation:** All aircraft not fitting into other categories

# Airport Operations

- Airport serves approximately 3 million passengers annually
- Total annual aircraft operations (landings & take-offs) is in excess of 325,000
- 180 businesses reside on Airport property
- Accounting for nearly 18,000 jobs

# Regulation of Airports and Aircraft

- Shared responsibility between City as Airport proprietor and FAA



# Regulation of Airports and Aircraft

## (Continued)

- FAA's primary role is to promote a coordinated and consistent National Air Transportation System and Policy



# FAA's Responsibilities

- Exclusive authority to control aircraft operations both in air, taxiways & runways
- Exclusive role to certify airports, aircraft & pilots
- Exclusive role to allocate grant funding through Federal Airport Improvement Program (AIP)
- Exclusive authority to approve use of Passenger Facility Charges (PFCs)

# City of Long Beach's Responsibilities

- Manage Airport tenants & concession agreements
- Plan & construct airport improvements (e.g., new Airport terminal facility & parking structure)
- Regulate operation of businesses at Airport (e.g., ground transportation, car rental, restaurants, fixed-base operations (FBOs))
- Financial administration
- Adopt zoning and land use controls to regulate land use surrounding Airport (e.g., Douglas Park)

# Airport Noise Compatibility Ordinance Chapter 16.43 (LBMC)

Pre-adoption Litigation History

1981 – 1995

12 years of litigation and community angst

# Litigation Background

- Since Airport inception, City has been vigilant in assuring LGB would not become a nuisance in community
- Flight demand at Airport increased dramatically in late 1970's – early 1980's
- Caused City Council to enact first Noise Control Ordinance in 1981
- In 1981, no cohesive Federal regulation of aircraft noise. Largely a hodgepodge of legal regulations from airport to airport, often uncoordinated and inconsistent.

# The 1981 Ordinance

- City's First Attempt to Regulate Aircraft Noise
- Established a curfew
- Required air carriers to phase in quieter aircraft
- Limited air carrier flights to 15 per day

# 1983

- Three air carriers filed suit challenging the 1981 noise regulation ordinance
- Federal Court issued an injunction pending resolution of the case requiring City to permit 18 daily flights
- 12 years of Federal litigation ensued. No final resolution until 1995

# Citizen Task Force Formed

- During pendency of litigation, City formed a Citizen Task Force
- City conducted a FAR Part 150 Study to try & adopt a judicially enforceable noise control ordinance
- Part 150 Study is a voluntary Federal Program used to try and seek a balance between an Airport's operational needs and noise impacts of an airport

# 1986

- During litigation, City prepares an Environmental Impact Report (EIR) to analyze impacts of a second noise control ordinance allowing 41 daily commercial flights
- Ultimately City Council rejected 41 flights and instead, imposed a 32 flight cap on operations
- Ordinance included daytime and nighttime noise limits



# 1986 (continued)

- Cumulative noise allocations (“Buckets”) to the five airport user groups (air carrier, commuter, industrial, charter, general aviation)
- Following adoption of 32 flight air carrier cap ordinance, City asked Court to dissolve earlier injunction
- Air carriers opposed the 32 flight limitation and pending trial court required City to allow 26 daily commercial flights and 25 daily commuter flights

# 1988

- Federal District Court trial held over a 60 day period in March and April 1988
- November 1988, the Federal District Court ruled against City's regulatory efforts on a number of grounds

# 1988 (continued)

The Court concluded:

- City lacked authority to regulate air carrier flights
- City had acted unreasonably and without an adequate basis or record
- City's ordinance unduly burdened interstate commerce and violated air carrier due process rights

# 1988 (continued)

- City appealed Federal District Court (trial court) decision to 9<sup>th</sup> Circuit Court of Appeal
- Pending resolution of the appeal, Federal District Court required City to increase air carrier flights to 41 and continue with 25 commuter flights

# 1992

- 9<sup>th</sup> Circuit Court of Appeal upheld the Trial Court ruling requiring 41 commercial flights and 25 commuter flights
- Ultimately, pending a further Appeal to the U.S. Supreme Court, the City and Airlines reached a settlement via a Stipulated Judgment
- The Court entered Final Judgment in May 1995 and City approved a Negative Declaration and adopted the current Noise Compatibility Ordinance

# 1992 (continued)

The current Ordinance has not been modified in any way since the final 1995 adoption

## Airport Noise and Capacity Act of 1990

- While appeals pending – Congress passed the Airport Noise and Capacity Act of 1990 (ANCA)
- Specific intent and objective was to bar local municipalities from imposing new noise restrictions on aircraft operations.
- ANCA designed to eliminate the hodge-podge of local regulations that attempted to regulate aircraft noise.

## Airport Noise and Capacity Act of 1990

- ANCA sought a coordinated and consistent approach to aircraft regulation at a National level
- Greatly reduced control at a local level
- While Congress was debating scope of ANCA and prior to adoption, City engaged in extensive lobbying efforts with its Congressional Representatives such as Glenn Anderson and others



# Airport Noise and Capacity Act of 1990

- City sought an exemption from ANCA's provisions due to its early attempts at noise regulation and extensive litigation history
- When adopted, significant provisions of ANCA did not apply: "to an airport noise or access restriction adopted by an airport operator not later than October 1, 1990, and stayed as of October 1, 1990, by a court order or as a result of litigation, if any part of the restriction is subsequently allowed by a court to take effect."

# Airport Noise and Capacity Act of 1990

- ANCA so stringent no airport has successfully imposed a restriction (e.g., curfew) on the current generation of aircraft since 1990
- Applies to any regulation or mandatory restriction that has effect of limiting airport access to, or noise from, current generation of aircraft.
- Administrative relief (FAR Part 161) is onerous, costly and time consuming and thus far not productive

# Airport Noise and Capacity Act of 1990

In 2004, FAA confirmed in writing, as part of a Federal Administrative Proceeding related to an allocation of flights to JetBlue, that the exemption specifically applied to the City of Long Beach

# Chapter 16.43

## Three Major Components of Ordinance

1. Established single event noise exposure limits (SENEL) excluding some noisier aircraft
2. Established a “soft curfew” requiring all commercial flights to be scheduled between 7:00 a. m. and 10:00 p.m. *Imposed both administrative and criminal penalties for violations*

# Chapter 16.43

## Three Major Components of Ordinance (continued)

3. Established Community Noise Equivalent (CNEL) budgets for all five (5) Airport user groups (commercial air carriers, commuter, general aviation, industrial, charter)
  - Budgets used a baseline year 1989-1990
  - Allows carriers to operate a minimum 41 commercial flights; 25 commuter flights

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## Three Major Components of Ordinance (continued)

- Establishes a mechanism to increase number of flights
- ✓ For example, 11 additional flights studied in Airport Terminal Area Improvement EIR
- ✓ Long Beach Airport Annual Noise Budget Analysis Report

# Chapter 16.43

## Three Major Components of Ordinance (continued)

- ✓ Additional flights can only be awarded to the extent Airport Manager determines that initiation of service will not lead carriers to exceed the Noise “Bucket” levels established by the Ordinance

# Noise Bucket Exemptions

- Public aircraft (e.g., military)
- Law enforcement, fire, rescue
- Officially proclaimed emergency
- Civil Air Patrol
- Aircraft experiencing in-flight emergencies
- Medical emergencies



# Conclusion

- Chapter 16.43 is a City asset
- Fought for by citizens and elected officials
- 12 years of litigation and considerable expense
- Due to the exemption from ANCA, one of the most restrictive noise control ordinances in Country
- Has not been amended EVER due to not wanting to jeopardize current status of local control of our Airport



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# Long Beach Airport Noise Enforcement

Douglas P. Haubert, City Prosecutor  
City Council Study Session  
February 17, 2015



# Long Beach Airport Prohibited Activities



- **Operational rules**  
(LBMC 16.43.030)
- **Noise rules**  
(LBMC 16.43.040)



# Noise Rules

## Single Event Noise Exposure Level (S.E.N.E.L.)

- No violation for exceeding CNEL
- City cannot ban violators from using airport

SENEL violations depend on time of day/night & runway used

# SENEL Limits

	7am-10pm		10pm-11pm 6am-7am		11pm-6am	
	Depart.	Arriv.	Depart.	Arriv.	Depart.	Arriv.
Runways 30/12	102.5	101.5	90	90	79	79
Runway 25R	92	88	n/a		n/a	
Runway 25L	95	93	n/a		n/a	
Runway 7R	95	92	n/a		n/a	
Runway 7L	88	92	n/a		n/a	

**N/A: Except in case of emergency or air traffic direction, from 10pm-7am all aircraft operations must use runways 30 and 12**

# LONG BEACH AIRPORT 65-DB ZONE



CITY OF LONG BEACH/GOOGLE EARTH







# SENEL Exemptions:

(LBMC § 16.43.070)

- **Public or military aircraft**
- **Law enforcement**
- **Emergency aircraft used during emergency**
- **Civil Air Patrol search and rescue**
- **In-flight emergencies**

# Responsibility for violation:

(LBMC § 16.43.080)



- Owner of aircraft presumed to be responsible party
- Actual operator of aircraft, if operator can be determined
- Corporate employees not responsible if operating in accordance with company policies



# Administrative Enforcement

(LBMC § 16.43.090)

- **Written notice given by Airport Manager**
- **G.A. Noise Committee**
- **Operator can submit Compliance Plan**
- **\$100/\$300 administrative surcharge (fine) back to Airport Fund**
- **Administrative appeal, hearing rights (LBMC § 16.43.110)**



# Legal Enforcement

(Alternative Enforcement, LBMC § 16.43.100)

- Only if Owner/Operator exceeds SENEL limit “without reasonable basis” for believing aircraft employed would comply with Noise Ordinance
- Criminal misdemeanor (\$1000 fine; 6 mos. jail)

# Legal Enforcement

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- **Jetblue Airways (2003-present)**
- **American Airlines (2003)**
- **Komar Aviation (2003)**

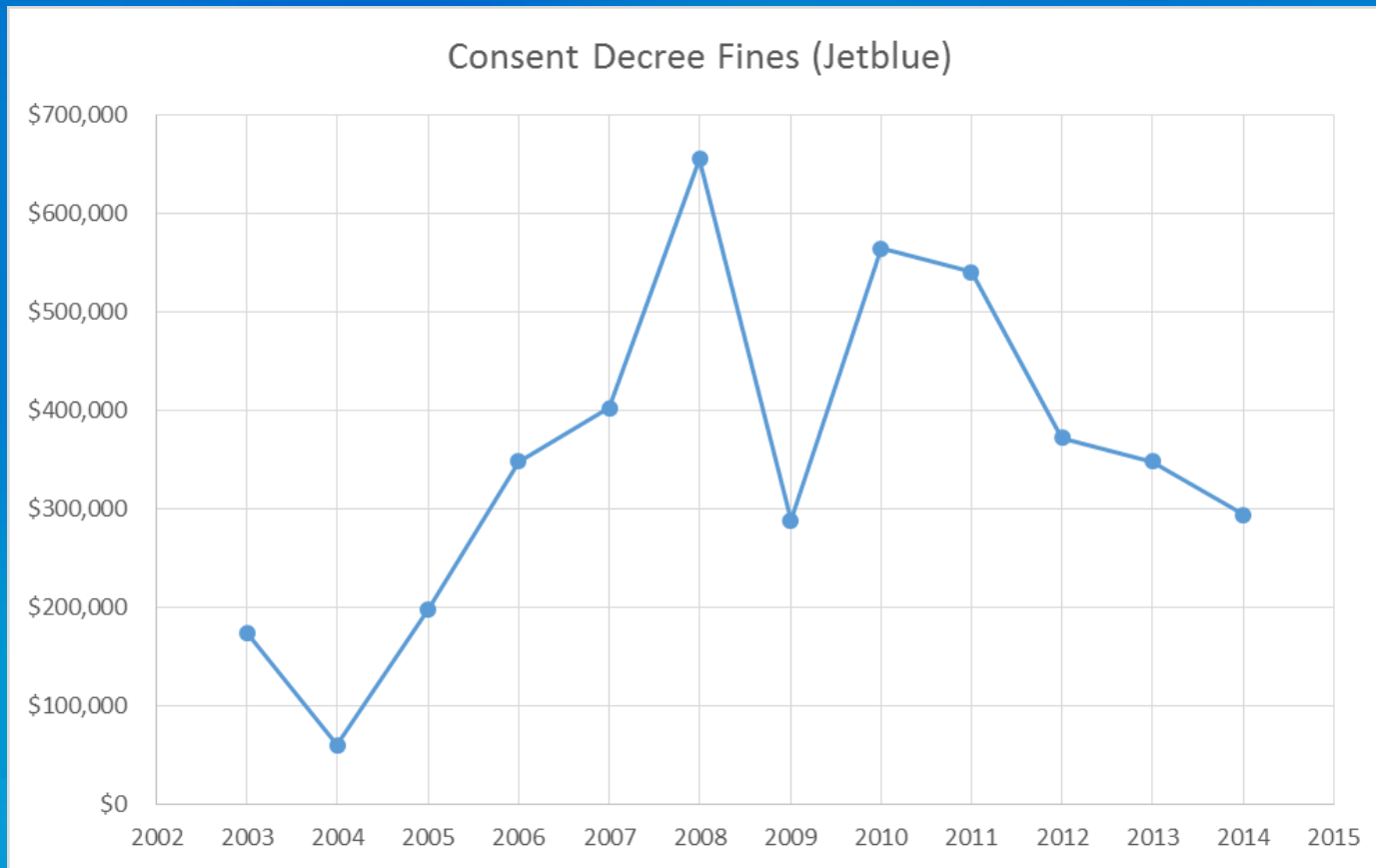
**Settlement of criminal cases by consent decree**

# Jetblue Consent Decree

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- \$3,000 per violation (1-6 per quarter)
- \$6,000 per violation (7+)
- Goal is to incentivize compliance
- To Library Foundation for “books, publications, and other learning materials, including electronic databases...may be used to improve family learning center modules...”

# Jetblue Consent Decree



# Thank You

*Special Acknowledgement:*  
**Ron Reeves**  
*Airport Noise & Environmental  
Affairs Officer*



**Doug Haubert**  
City Prosecutor

**Questions?**