

October 22, 2024

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**VIA USPS and Email (dawn.mcintosh@longbeach.gov)**

Ms. Dawn McIntosh,  
City Attorney  
City of Long Beach  
411 West Ocean Boulevard – 9<sup>th</sup> Floor  
Long Beach, California 90802

**Re: Training Flight Noise During Curfew Hours at Long Beach Airport**

Dear Ms. McIntosh:

Leech Tishman represents Long Beach Small Aircraft Noise Reduction Group (SANER). SANER, as you know, is a group of Long Beach residents who are fighting back against the onslaught of small aircraft noise that has been steadily increasing for several years. Their primary issue with small aircraft noise is well within the City's authority to stop. That problem is training operations at Long Beach Airport (Daugherty Field) (the "Airport").

The City of Long Beach has something that many other municipalities across the country wish they had: a noise ordinance restricting aircraft noise and operations that is not preempted by federal law. The City of Long Beach Airport Noise Compatibility Ordinance (Long Beach Municipal Code Chapter 16.43). While SANER does not have any issue with the commercial aircraft and their compliance with Chapter 16.43, it does have an issue with training operations that take place at the Airport. Under Chapter 16.43, training operations are prohibited between 7:00p and 7:00a during the week and between 3:00p and 8:00a on Saturdays, Sundays, and major holidays. Mun. Code § 16.43.030.A. SANER's demand is simple. The Airport should not grant permission to aircraft wishing to perform training operations during the above-mentioned times.

The members of SANER as well as other residents of Long Beach have been complaining to the Airport and the City regarding training operations taking place at the Airport outside of the hours allowed in § 16.43.030.A. The City and the Airport have responded that the operations taking place during the prohibited hours are not "touch-and-go" operations specifically prohibited under § 16.43.030.A, but "taxi back" operations, which, the City and the Airport claim, are not prohibited activities.

The City and Airport claim that a "taxi back" is not a prohibited activity because the definition of "training operation" does not specifically include "taxi back" operations and it is not included in § 16.43.030.A as one of the prohibited activities restricted to specific hours. Moreover, the City and Airport claim that § 16.43.030.A cannot be changed to include "taxi back" operations without losing the "grandfather" status of the entire Chapter 16.43. However, the City and Airport have been defining prohibited activities too narrowly.

There is no doubt that a "taxi back" operation is a training operation and that all training operations are subject to the 16-43-030.A curfew hours. The flight schools sending student pilots to do "taxi backs" at hours when training operations are prohibited are not doing the "taxi back" out of operational necessity. They are using the training operation to practice landings and takeoffs. Therefore, it is a training operation. There is also no doubt that § 16.43.030.A only allows training operations during specific hours. Section 16.43.030 is titled "Prohibited Activities," and subsection 16.43.030.A is titled "Training Operations." Moreover, the definition of "training operation" in Chapter 16.43 does not include an exhaustive list of prohibited activities. It states that "training operation" means "Touch and Go, Stop and Go, Practice Low Approach, and Practice Missed Approach Operation, *or any of them.*" Mun. Code § 16.43.010.P (emphasis added). The addition of "or any of them" to the end of the list is to be construed that the listed items are not an exclusive list. Therefore, "taxi back" is a training operation and it is prohibited at night during the Training Operations Curfew Hours.

Both the City and Airport have long interpreted 16.43.030.A to apply to all training operations. The City and Airport state in its "Community Guide to Aircraft Noise" that "Long Beach Airport *established limitations on hours of training* and run-ups, including early curtailment on weekends and holidays, and the closure of all but one runway during late

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night hours.” Guide, p. 4 (emphasis added). Similar language can be found in the Long Beach Airport Association’s “History of LGB’s Noise Compatibility Ordinance,” which states that “[i]ncluded in the ordinance are noise limits for arrival and departure for each runway, *limitations on hours for training operations* and engine run-ups (other than preflight).” Long Beach Airport Association, Aviation Noise Abatement Committee, Lesson Plan, p.1. Thus, the City and Airport have long considered 16.43.030.A to apply to all training operations, not just the enumerated operations. Because “taxi backs” is a training operation, it is prohibited outside the hours listed in the Ordinance.

Moreover, to classify “taxi back” as exempt from the restricted hours of § 16.43.030.A would require a strained interpretation of the ordinance that contradicts the purpose of Chapter 16.43. When interpreting an ordinance, the courts in California have said that even when a statute’s text appears clear, one must consider the statute’s context to avoid absurd results. As the California Supreme Court said in *Copley Press, Inc. v. Superior Ct.*, (2006) 39 Cal. 4th 1272, 1291, “our task is to select the construction that comports most closely with the Legislature’s apparent intent, with a view to promoting rather than defeating the statutes’ general purpose, and to avoid a construction that would lead to unreasonable, impractical, or arbitrary results.” See also *Poole v. Orange County Fire Authority*, (2015) 61 Cal.4th 1378, 1385; *Horwich v. Superior Court* (1999) 21 Cal.4th 272, 276, [“we do not construe statutes in isolation, but rather read every statute with “reference to the entire scheme of law of which it is part so that the whole may be harmonized and retain effectiveness.””]. The purpose of Chapter 16.43 is to limit the deleterious effects of aircraft noise on the residents of Long Beach. Indeed, the title of the Chapter is “Airport Noise Compatibility Ordinance.” Interpreting § 16.43.030.A in such a way that it prohibits “touch-and-go” training operations, but exempts “taxi back” training operations is contrary to the intent of Chapter 16.43 in general and the intent of § 16.43.030.A in particular. Indeed, it makes a mockery of the ordinance, which protects Long Beach residents from aircraft noise at night. Interpreting § 16.43.030.A to exempt “taxi backs” from compliance leads to an absurd result and is clearly an attempt to find a non-existent loophole in the ordinance. It is clear from the ordinance that the provision is meant to apply to all training operations, not just the training operations specified.

SANER demands that the City of Long Beach, as owner/operator of the Long Beach Airport, direct the Airport’s Noise Abatement Office to work in conjunction with the Air Traffic Control Tower to ensure that “taxi back” operations are not flown after the curfew on training operations. Further, SANER demands that *any* training operation at the Airport must be conducted within the hours specified in 16-43-030.A.

SANER would appreciate acknowledgement from the City that it has received this letter and that these requests are being considered. Without such acknowledgement, SANER will evaluate its legal options to protect the residents of Long Beach’s health and welfare.

If you have any questions or comments, please feel free to call me at (626) 395-7300 or send me an email at [staber@leechtishman.com](mailto:staber@leechtishman.com).

Very truly yours,

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