

The Long Beach Airport  
Noise Compatibility Ordinance  
CHAPTER 16.43  
*An Historical Perspective*

*Presented by  
Long Beach City Attorney's Office  
Michael Mais, Assistant City Attorney  
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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

# Chapter 16.43

## 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



CHARLES PARKIN, City Attorney  
MICHAEL J. MAIS, Assistant City Attorney  
333 W. Ocean Blvd., 11<sup>th</sup> Floor  
Long Beach, CA 90802  
Telephone: (562) 570-2200  
Email: [michael.mais@longbeach.gov](mailto:michael.mais@longbeach.gov)

# 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

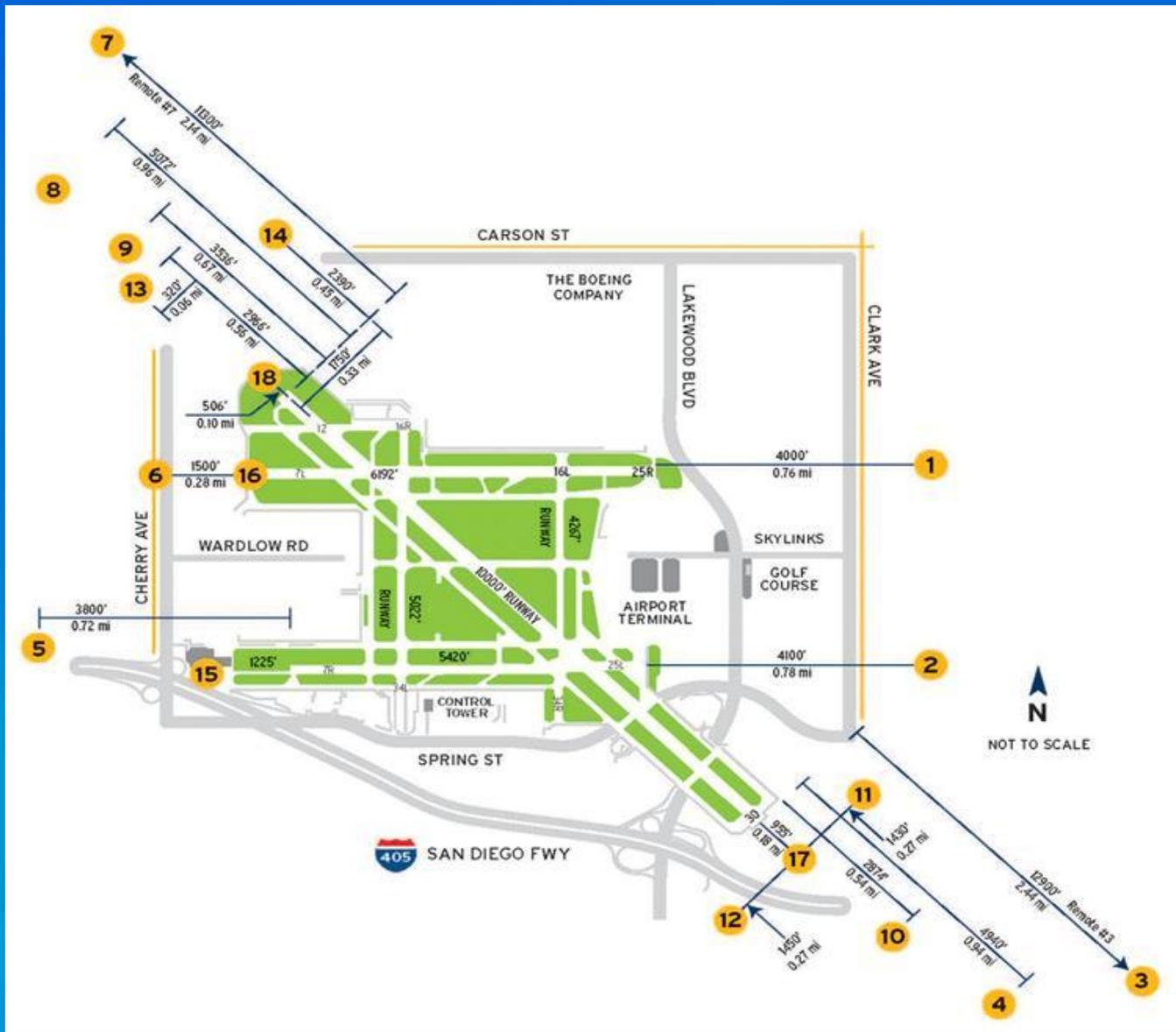
	7am-10pm		10pm-11pm 6am-7am		11pm-6am	
	Depart.	Arriv.	Depart.	Arriv.	Depart.	Arriv.
Runways 30/12	102.5	101.5	90	90	79	79
Runway 25R	92	88	n/a		n/a	
Runway 25L	95	93	n/a		n/a	
Runway 7R	95	92	n/a		n/a	
Runway 7L	88	92	n/a		n/a	

**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)**

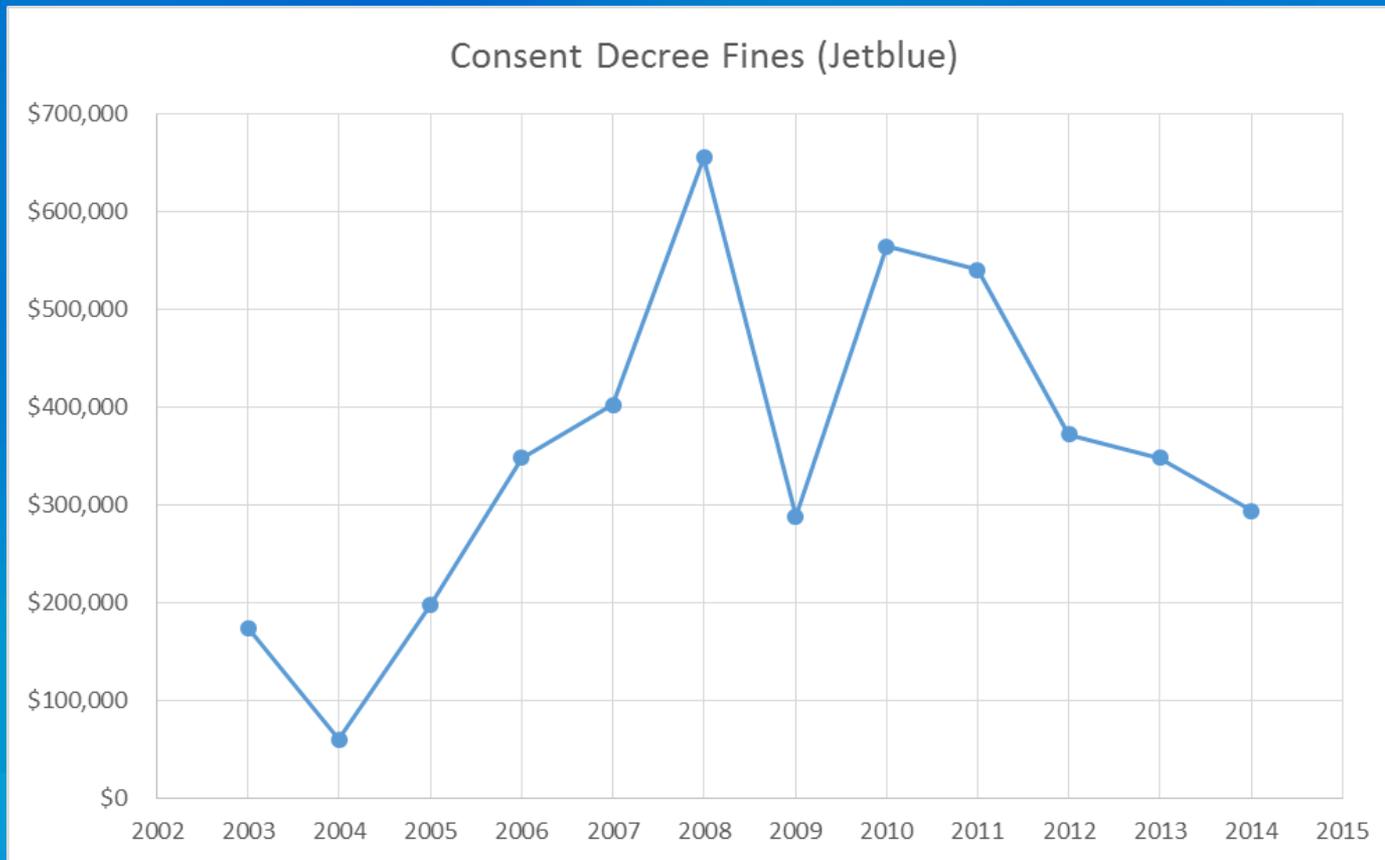
**Settlement of criminal cases by consent decree**

# 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?***