



A photograph of a white airplane on a tarmac. The plane is viewed from a low angle, showing the cockpit, the wing, and the engine. In the background, there is an airport building with the 'Asiana Cargo' logo and other aircraft.



The seal of the City of Dallas, Texas, featuring a five-pointed star in the center, surrounded by the words 'CITY OF DALLAS' and 'TEXAS'.

# Airport Law 101

By: Robert L. Sims  
Assistant City Attorney, City of Dallas

## Key Areas Covered In Presentation

- General Nature of Airports
- Airport Governance and Control
- Airport Financing
- Airport Operations
- Airport Noise Issues
- Local Zoning and Land Use Regulation of Airports
- Airport Security
- Airport Environmental Issues
- Miscellaneous Airport Legal Issues
- Airport Lawyer Resources

## Sources of Airport Law

- Federal Law
  - Title 49
  - Federal Regulations
    - Title 14 C.F.R. (FAA, TSA)
    - Title 49 C.F.R. (DOT)
  - FAA Orders and Policies
  - FAA Advisory Circulars
  - FAA and TSA Manuals, Handbooks & Guidance Letter
- State and Local Law Texas Transportation Code
  - Chapter 22
  - Special Legislation (Origin of DFW International Airport)
- Local Government Ordinances, Rules, Regulations, Orders, Minimum Standards

## Legal Relationships



## Federal Control

- Exclusive
  - Airspace
  - Aircraft and Pilot Certification
  - Aircraft Noise Standards
- Shared (With State and Local Jurisdictions)
  - Regulation of Airports
  - Regulation of Aircraft Operations
  - Airport Noise Abatement and Mitigation
- Key Sources of Federal Control
  - Statutes
  - Federal Regulations (Including FARs)
  - Grant Assurances
  - Airport Operating Certificates
  - Conditions of Project Approvals
  - Deed Restrictions

## Chapter 22 of the Texas Transportation Code – County and Municipal Airports

- General Powers Regarding Airports
- Financing of Airport Facilities
- Airport Operations
- Airport Contracts and Leases
- Noise Abatement
- Joint Operations
- Airport Security Officers
- Acquisitions and Disposal of Property

## Local Governance of Airports

- State, County or City
- Department or Separate Authority
- Single or Multiple Jurisdictions
- Single Airport or Airport System
- Operator: Government or Private Entity

## State and Local Control

- Airport Ordinances
- Zoning and Land Use
- Building Codes
- Criminal Laws
- Environmental Laws/Rules and Regulations
- Financial
  - Government Services, Taxes and Impact Fees
  - Non-Aeronautical Rates and Charges
- Regulation of Surrounding Land Use
- Airport Rules and Regulations
- Airport Minimum Standards

## Airport Financing Closed Fiscal System

- Airport Revenue Can Only Be Used For Airport-Related Purposes
- Airport Must Strive To Be Self-Sustaining
- Airport Cannot Have Unreasonable Surpluses

## Airport Funding Sources - I

- Airport Revenue
  - Landing Fees or Fuel Flowage Fees
  - Tenant Rents
  - Concession Fees
  - Parking Fees
  - Access Fees (Passenger Vehicles and Ground Transportation)
  - On-Airport Permit Fees

## Airport Funding Sources - II

- Airport Improvement Program (AIP) Grants
  - Entitlements and Discretionary
- Airport Bonds (General Airport Revenue Bonds and Special Facility Bonds)
- Passenger Facility Charges (PFCs)
  - \$3.00/Ticket
  - \$4.50/Ticket
  - Possibly \$7.00/Ticket
- State and Local Government Contributions

## Airport Rates and Charges Financing Models

- Compensatory
- Residual
- Hybrid

### 5 Principles

1. Local Negotiations
2. Fair and Reasonable
3. Non-Discriminatory
4. Maintain Self-Sufficiency
5. Eligible Expenses



## Airport Proprietor – Airside Obligations

- Runway Construction
- Runway Maintenance
- Runway Clearance
- Height Restrictions
- Taxiway Maintenance
- Fencing
- Security Area Access
- Fire-Fighting and Police Enforcement
- Airport Layout Plan

## Airport Proprietor – Landside and Terminal Obligations and Responsibilities

- Roadway Construction, Maintenance and Traffic Management
- Compliance With Height Restrictions
- Terminal Building Construction, Operations and Maintenance
- Ground Transportation (Taxis, Shuttles, Courtesy Vans, Rental Cars, Limousines, People Mover/Train)
- Food and Beverage Concessions
- Newspaper, Magazine and Book Concessions
- Gift Shops
- Parking Lots/Garages
- Airport Layout Plan

## Airport Security

- Changing Relationships
  - Airport Proprietor
  - TSA
  - Law Enforcement Organizations
  - Other DHS Operations
- Airport Obligations Regarding Security
  - Security Plan
  - Perimeter Fencing
  - Access to Secured Areas
  - Badging and Identification
  - Roadway Management
  - Presence at Passenger Screening Sites
  - Crisis Employment Team
  - Interoperable Communications and Surveillance Devices

## Airport Security Trends

- Passenger Pre-Flight Vetting (Not Airport Obligation)
- Passenger Segregation (Registered Traveler Program)
- Biometrics
  - Fingerprinting
  - Full Body Scans
- Search and Seizures (4<sup>th</sup> Amendment)
- Security Congestion (Travel Disincentives)
- Increased Emphasis on Cargo Security



## Airport Environmental Issues

- Noise Liability; Noise Management
- Air Emissions From Aircraft and Ground Vehicles
- Ground Water Contamination and Spill Prevention and Containment
- Interaction with EPA and TCEQ National Environmental Policy Act (NEPA) Compliance

## Miscellaneous Airport Legal Issues

- First Amendment Issues (Free Speech and Press)
- Fourth Amendment Issues (Search and Seizure)
- Airport Access Issues
- Disadvantaged Business Enterprises (DBEs)
- Airport Airside and Landside Congestion
- Air Carrier and Airport Tenant Bankruptcies

## Airport Lawyer Resources

- FAA and TSA Home Pages
- American Association of Airport Executives (AAAE) Membership
  - Airport Law Seminars
  - Bi-Monthly Airport Report
- Airport Council International – North America (ACI-NA)
  - Airport Law Seminars
  - General Counsel E-Mails
- Major City Newspapers on Internet
- Major City Homepages
- Airport Boutique Law Firms (Major Airports: with Washington D.C. Capabilities)
- TML Connect News Service