

**APPENDIX E FAA OPINION REGARDING ANCA GRANDFATHER
STATUS OF NOISIER AIRCRAFT PHASEOUT WITH
STAGE 3 AND STAGE 4 EXEMPTIONS**

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U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Associate Administrator
for Airports

800 Independence Ave., SW.
Washington, DC 20591

MAR 19 2009

Ms. Gina Marie Lindsey
Executive Director, Los Angeles World Airports
Los Angeles International Airport
1 World Way
Los Angeles, CA 90045

Dear Gina Marie:

Gina Marie

Shortly after receiving your February 2 letter about the proposed "Van Nuys Noisier Aircraft Phaseout Ordinance," my staff arranged a conference call with Mr. Tatro of your staff. The call included VNY's consultant and city attorney representatives as well.

We have reviewed your response to my December 11, 2008 inquiry, the original proposed ordinance and the draft proposed revision that addresses the 7-year phase out. We believe the phase out rule is grandfathered under the Airport Noise and Capacity Act of 1990 (ANCA), if the Board of Airport Commissioners (Board) votes in favor of an alternative restriction. Specifically, LAWA staff stated they would ask the Board to take action on a less restrictive alternative and associated draft ordinance already evaluated and published in the environmental impact report. The alternative provided for exemptions to Stage 3 and Stage 4 aircraft. Applying this exemption would ensure the proposed phaseout is grandfathered.

As we stated during the telephone call, the phaseout, with exemptions, would be grandfathered under the ANCA and not subject to the statute's requirements. However, restrictions must still meet standards under preexisting Federal law. This includes Federal grant obligations. Airport noise and access restrictions must be fair and reasonable, not unjustly discriminatory, and may not impose an undue burden on interstate or foreign commerce. LAWA should thoroughly examine the ability of the proposed restriction to meet these requirements as part of the local process to consider adoption of the restriction.

Mr. Tatro has agreed to keep our offices informed as the proposal makes its way through the local regulatory process. Thank you for offering to work with us on this important issue.

Sincerely,

Catherine M. Lang
Acting Associate Administrator
for Airports

Thank you for your help. Tatro

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