

## Communication from Public

**Name:** Comments of the Van Nuys Airport Association  
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**Council File No:** 23-1338  
**Comments for Public Posting:** Comments of the Van Nuys Airport Association - See Attached

February 5, 2024

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**RE: Proposed Van Nuys Airport Specific Plan**

Dear Ms. Soto:

I respectfully submit this letter on behalf of the Van Nuys Airport Association (“VNAA”). The VNAA represents the interests of tenants and users of the Van Nuys Airport (“VNY”), who collectively are interested in ensuring the continued prosperity and utility of the airport, as well as the important economic, public safety and other services that it provides to the Los Angeles area. As you know, VNY is administered by Los Angeles World Airports (“LAWA”), a department of the City.

Two members of the City Council, Nithya Raman (District 4) and Imelda Padilla (District 6) have introduced a motion (no. 23-1339) instructing the Department of City Planning to develop a Specific Plan for the development of VNY. While not expressly stated, the motion is intended to advance an effort to impose both a short-term moratorium and long-term restrictions on aeronautical projects at the airport, in response to demands from a relatively small – yet vocal – group of airports neighbors who previously have demanded the restriction of flight operations at VNY, by either direct or indirect means.

Relatedly, both Members have communicated to stakeholders, including neighbors and members of VNAA, of their intent to oppose any development leases that may be pending before the City Council to the extent those leases relate to aeronautical uses at VNY. Apparently, this policy will apply until a Specific Plan is in place. However, Council Member Padilla also has instructed LAWA to continue to publish non-aeronautical RFPs, without any delay premised on the pendency of a new Specific Plan.<sup>1</sup>

A Specific Plan that impedes and discriminates against aeronautical uses, as well as any formal or informal effort to impose moratoria on the development of aeronautical facilities at VNY, *is inconsistent with both federal statutes and obligations that the City has assumed pursuant to agreements with the federal government.*

Van Nuys Airport was acquired by the City from the federal government in 1949, pursuant to a surplus property deed, which imposes conditions on the operation of the airport – including that the property “be used for airport purposes for the use and benefit of the public, on reasonable terms and without unjust discrimination.” These requirements are *perpetual* in duration. Similarly, the City for decades has accepted grants from the FAA via its Airport Improvement Program (“AIP”), which impose similar long-term obligations on the City’s stewardship of VNY.

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<sup>1</sup> Transparency is also a concern for VNAA, including that these matters may be on the agenda for a February 8 meeting of the Trade, Travel and Tourism Subcommittee – but despite the requirements of the Brown Act, neither the meeting nor an agenda for that meeting has been publicly noticed.

In interpreting airports' obligations, the FAA has been emphatic that they may not impose arbitrary burdens and/or delays on aeronautical development. "Pursuing lease terms, plans, or managerial processes, that unnecessarily limit the airport's aeronautical utility by restricting development is inconsistent with the City's Federal obligations. It is unreasonable for an airport operator to refuse to develop a Federally obligated airport in response to aeronautical demand, as the airport was conveyed for this very purpose and Federal grant funds have been expended for the purpose of enhancing the aeronautical utility of the airport." See Grayson v. DeKalb County, Georgia, FAA Docket No. 16-05-13, Director's Determination, at 13-14 (February 1, 2006). The current proposal for a Specific Plan appears to be directly at odds with that guidance.

Moreover, all publicly owned airports in the United States are subject to the requirements of the Airport Noise and Capacity Act ("ANCA"), which was adopted by Congress in 1990 to prevent piecemeal local restrictions on the use of airports from disrupting the national airspace system. The statute prohibits, absent a detailed study process and approval by the FAA, both direct and indirect access restrictions. See, e.g., 14 C.F.R. § 161.5; *Millard Refrigerated Services, Inc. v. FAA*, 98 F.3d 1361, n.4 (D.C.Cir. 1996). In this case, the current proposal for a Specific Plan appears to be an impermissible attempt to accomplish by indirect means what the City cannot accomplish directly – i.e., discouraging flights by preventing development – since it should be undisputed that only the FAA has the authority to regulate the use of airspace.

The VNAA has been and continues to be interested in working with the City to ensure that the value of the airport is understood and utilized, as well as to assist with the development and implementation of voluntary measures that can minimize its impact on neighbors. But the City should understand that the proposal now at issue is misguided and may have severe negative consequences. If the City is in violation of its obligations, not only may the FAA suspend its eligibility for AIP funding – not limited to grants for VNY, but also for Los Angeles International Airport ("LAX") – but further may take other actions, up to and including the reversion of VNY to federal government ownership. Stakeholders at the airport also will be able to request remedies, in an FAA administrative proceeding or in court.

We appreciate your attention to these matters. If I or the VNAA can be of assistance in further explicating these issues, we certainly can be available to engage further.

Sincerely,



Jol A. Silversmith

cc: Paul Krekorian - Council President, City of Los Angeles  
Imelda Padilla – Council Member, District 6, City of Los Angeles  
Hugo Soto-Martinez – Council Member, District 13, City of Los Angeles  
Tim McOsker – Council Member, District 15, City of Los Angeles  
Brian Ostler - General Counsel, LAWAQ  
Mark McClardy – Director, FAA Office of Airports, Western Pacific Region  
Joe Manges – Division Counsel, FAA Office of Chief Counsel