Session 2 – Airport Law 101
An Introduction to Airport Law

31st Annual AAAE Basics of Airport Law Workshop
and 2015 Legal Update
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Today's Session

- Introduction to basic structures
- Sources of law
- Top 10 principles to guide airport lawyers
Understanding Airport Law
Airport Law v. Aviation Law

Airport Law
- FAA / TSA compliance
- tenant and employee relations
- airport finances
- real estate development
- airport operations and certification

Aviation Law
- aircraft accidents
- pilot regulation
- airline regulation
- aircraft ownership and financing
Aviation Law
(not covered at this conference)

- aircraft accidents
- pilot regulation
- airline regulation
- aircraft ownership and financing
FAA Organization (officially)

Administrator
  Michael Huerta

Chief Counsel
  Reggie Govan

Associate Administrator - Airports
  Eduardo Angeles

Depty Assoc Administrator
  Ben DeLeon

Planning and Programming
  Eliot Black

Compliance
  vacant

Safety and Standards
  Michael O'Donnell

Regional Offices
  9 regions

Airport District Offices
Sources of FAA’s authority

1. Grant Assurances
2. Deeds (Surplus Property Act)
3. Part 139 regulations (commercial airports)
4. Revenue use statute and policy
Legal sources - generally

- Statutes
- Regulations
- Adjudications
- FAA Orders
- Policy Statements
- Guidance Letters
- Advisory Circulars
Mr. Mayor, having accepted multiple grant payments over the last 30 years and having provided an equal number of grant assurances, we find our relationship with the FAA to be much like the guests described in the Eagles’ song, Hotel California, “you can check out any time you like, but you can never leave!”
Grant Assurances - Part 1

- Contractual, not regulatory
  - But Congress mandates the grant assurances
- 20-year duration in most instances
  - Clock resets at each grant
- FAA gets to enforce
  - Prosecutor, judge, jury, executioner
- Court review only after FAA decision
Grant Assurances - Part 2

- 39 separate requirements
- Apply to most non-planning grants
- Legally binding by contract
- Principal issues
  - Assurance 5 – rights and powers
  - Assurance 22 – economic nondiscrimination
  - Assurance 23 – exclusive rights
  - Assurance 24 – fee and rental structure
  - Assurance 25 – airport revenue
Top 10
1. We OWN the Airport! No, you don't!

Do! Do!

Don't! Don't!
FAA regulation leads to preemption

5.

Warning
6.

- Agency is huge; airports function is not!
- Airports District Office is first point of contact
- Major policy issues to HQ
- Enforcement (routine) at ADO
- Adjudications of grant violations at HQ
- Don’t be afraid to call!
Revenue use

- Federal statute prohibits “diversion” of revenue at airport that has been grant obligated since 1996
- FAA – detailed policy that greatly amplifies statute
- FAA position – requirement is **perpetual**
- Very complex definitions
8. Disagreements with FAA

Enforcement
- Focus is on current compliance, not generally punitive action
- Generally ADO or Region

Adjudication of grievances
- FAR Part 16 for grant assurances
- Occasionally, rarely, court

Penalties; corrective action
- Negotiated

Exclusive jurisdiction in US Ct. Appeals (49 USC § 46110)
9.

KEEP CALM AND BE REASONABLE
10. Common Misconceptions

(that affect our role as lawyers)

- Airports have unlimited supply of money
- Airports are just like other local government functions
- The Federal Government only regulates money and aircraft
- Airports exist only to serve (fill in blank).
Homework
• Read the grant assurances
• Check relevant advisory circulars
  - There are many
  - Practically very important
• Determine whether the problem is commercial aviation or general aviation
  - Distinct regulatory scheme
  - TSA
Questions?

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