


February 5, 2016

TO: Hon. Michael Kaplowitz, Chair  
Hon. Jim Maisano, Vice Chair  
Hon. Catherine Borgia, Majority Leader  
Hon. John Testa, Minority Leader

FROM: Robert P. Astorino   
Westchester County Executive

RE: Message Requesting Immediate Consideration: **Local Law: Westchester  
County Airport Terminal Use Procedures.**

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This will confirm my request that the Board of Legislators allow submission of the referenced legislation to be submitted to the Board of Legislators February 8, 2016 Agenda.

Transmitted herewith for your review and approval is a proposed Local Law which, if adopted by your Honorable Board, would amend Section 712.462 of the Laws of Westchester County, entitled: *Westchester County Airport Terminal Use Procedures* ("Airport Procedures") in order to make the existing limitations on air carrier operations contained therein more flexible, thereby improving the business relationship between the County and the air carriers serving the Westchester County Airport (the "Airport").

Therefore, since this legislation is of the utmost importance and time is of the essence, it is respectfully submitted that the County Board of Legislators accepts this submission for February 8, 2016 "blue sheet" calendar.

Thank you for your prompt attention to this matter.



Robert P. Astorino  
County Executive

February 5, 2016

Westchester County Board of Legislators  
800 Michaelian Office Building  
148 Martine Avenue  
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your review and approval is a proposed Local Law which, if adopted by your Honorable Board, would amend Section 712.462 of the Laws of Westchester County, entitled: *Westchester County Airport Terminal Use Procedures* (“Airport Procedures”) in order to make the existing limitations on air carrier operations contained therein more flexible, thereby improving the business relationship between the County and the air carriers serving the Westchester County Airport (the “Airport”).

As your Honorable Board knows, the Airport Procedures provide important protections for the people of Westchester County and represent a careful balance between competing interests at the Airport. They also provide an efficient mechanism to support the County’s investment in passenger facilities, the continuing maintenance and operation of the Terminal complex, and the implementation of passenger and aircraft security and safety measures.

As your Honorable Board also knows, the Airport Procedures have been in continuous effect since 1984, both through the operation of several Resolutions approved by your Honorable Board and pursuant to the specific provisions of the agreements which the County required each commercial airline operating out of the Airport to execute. In 2004, upon the recommendation of the County Executive, your Honorable Board codified the Airport Procedures by enacting Local Law No. 12-2004, making their application permanent. Thereafter, by Local Law No. 21-2005, your Honorable Board amended the Airport Procedures in order to clarify that they apply to all aviation passenger services which operate out of the Airport pursuant to which seats are individually offered or sold to the public, regardless of the frequency of such offers or sales.

Office of the County Executive

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It should be noted that a significant limitation placed on air carrier operations at the Airport by the Airport Procedures is the 240 per half hour passenger limitation. Under this limitation, no more than 240 passengers per half hour are permitted in the main passenger Terminal, without consideration of whether such passengers are enplaning or deplaning. This limitation is allocated to the airlines through a lottery system that has been in place since 1984.

It is important to recognize that at the time the Airport Procedures were first developed, the existing passenger Terminal was a 10,000 square foot Quonset hut and the majority of aircraft using the Terminal were 8 to 30-seat propeller driven aircraft. As your Honorable Board is aware, the passenger Terminal has since grown to 41,000 square feet and the aircraft using the Terminal include much larger 50 to 156 seat modern jet aircraft. Additionally, the newer aircraft that have entered the market have advanced wing and engine designs that have improved fuel efficiency, resulting in reduced hydrocarbon emissions. Further, the advancement in jet engine technology has significantly reduced the community noise footprint. Yet despite these changes, the 240-passenger per half hour limitation has remained in effect.

As a consequence of this limitation, air carriers currently serving the Airport are unable to increase the size of their aircraft or start new service due to the lack of available passenger allocations in various slot periods. For example, with the operation of jetBlue's A-320 and E-190 (156 seats and 100 seats, respectively), the allocation for the two (2) half-hour periods (arrival and departure) would exceed the 240-passenger per half-hour limit. Subsequently, it also leaves two gate positions empty because of lack of passenger allocations. Similarly, four (4) 76-seater aircraft would exceed the two (2) half-hour passenger allocations for their arrival and departures by 128 passengers. In addition to placing constraints on existing airlines serving the Airport, the passenger capacity limitation has resulted in the County being unable to attract new air carrier service. With aircraft manufacturers such as Embraer and Bombardier forecasting a market for approximately 7,000 new aircraft with larger seating capacities over the next 15 years, it is critical that the County address the current passenger capacity limitations at this time.

In an effort to make the existing Terminal capacity limitation less onerous to existing airlines serving the Airport and to attract new air carrier service, it is proposed that the Airport Procedures be amended by redistributing the 240 passenger per half hour limitation over the course of 24-hours, thereby creating a daily maximum allocation of 11,520 passengers. This redistribution will remain subject to the actual physical constraints of the Terminal facilities. Specifically, the capacity to accommodate flights and passengers is constrained by the number of Terminal ramps and gates available. Likewise, the Terminal building remains subject to fire and safety limitations, which could limit the building's capacity at any given time. In this way, passenger allocations in underutilized half-hour periods, such as the overnight and weekend slots, could be applied to the most demanding slot periods, thus allowing for more efficient use of the Terminal space. It should be noted that under the current model, airlines exceeding the passenger allocation limitation in any half-hour slot are issued a violation letter with the requirement that they reduce their passenger loads to ensure continued compliance. Under the proposed model, so long as the *daily* average of 11,520 is not exceeded among all airlines, the air carriers will remain in compliance with the procedures.

In sum, the proposed amendments to the Airport Procedures will make the existing limitations on air carriers serving the Airport less restrictive, thereby improving the business relationship between the County and the air carriers.

The Planning Department has advised that based on its review, a copy of which is attached, the proposed amendment of the Airport Procedures falls within the definition of an Unlisted action under the State Environmental Quality Review Act ("SEQRA") and its implementing regulations 6 NYCRR Part 617. A Resolution, along with an Environmental Assessment Form, is attached to assist your Honorable Board in complying with SEQRA. Should your Honorable Board conclude that the proposed action will not have any significant adverse impact on the environment, it must approve the Resolution issuing a Negative Declaration prior to enacting the authorizing the proposed Local Law. As you know, your Honorable Board may utilize the professional advice and assistance of the Planning Department in making your required determination under the applicable SEQRA regulations

I have been advised that pursuant to the Laws of Westchester County Section 209.171(2), the attached Local Law is subject to permissive referendum because it changes a provision of law relating to contracts. Consequently, the proposed Local Law may not take effect until sixty (60) days after its adoption, assuming that within that time a petition protesting its adoption is not filed by the number of qualified electors qualified by law.

For the foregoing reasons, I recommend approval of the attached Local law to amend the Airport Procedures.

Very truly yours,



Robert P. Astorino  
County Executive

RPA/JP/dlv

**HONORABLE BOARD OF LEGISLATORS  
THE COUNTY OF WESTCHESTER, NEW YORK**

Your Committee is in receipt of a communication from the County Executive recommending the adoption of the annexed Local Law which, if approved by your Honorable Board, would amend Section 712.462 of the Laws of Westchester County, entitled: *Westchester County Airport Terminal Use Procedures* (“Airport Procedures”) in order to make the existing limitations on air carrier operations contained therein more flexible, thereby improving the business relationship between the County and the air carriers serving the Westchester County Airport (the “Airport”).

As this Honorable Board knows, the Airport Procedures provide important protections for the people of Westchester County and represent a careful balance between competing interests at the Airport. They also provide an efficient mechanism to support the County’s investment in passenger facilities, the continuing maintenance and operation of the Terminal complex, and the implementation of passenger and aircraft security and safety measures.

As this Honorable Board also knows, the Airport Procedures have been in continuous effect since 1984, both through the operation of several Resolutions approved by your Honorable Board and pursuant to the specific provisions of the agreements which the County required each commercial airline operating out of the Airport to execute. In 2004, upon the recommendation of the County Executive, this Honorable Board codified the Airport Procedures by enacting Local Law No. 12-2004, making their application permanent. Thereafter, by Local Law No. 21-2005, this Honorable Board amended the Airport Procedures in order to clarify that they apply to all aviation passenger services which operate out of the Airport pursuant to which seats are individually offered or sold to the public, regardless of the frequency of such offers or sales.

Your Committee is advised that a significant limitation placed on air carrier

operations at the Airport by the Airport Procedures is the 240 per half hour passenger limitation. Under this limitation, no more than 240 passengers per half hour are permitted in the main passenger Terminal, without consideration of whether such passengers are enplaning or deplaning. This limitation is allocated to the airlines through a lottery system that has been in place since 1984.

Your Committee is informed that at the time the Airport Procedures were first implemented, the existing passenger Terminal was a 10,000 square foot Quonset hut and the majority of aircraft using the Terminal were 8 to 30-seat propeller driven aircraft. As your Honorable Board is aware, the passenger Terminal has since grown to 41,000 square feet and the aircraft using the Terminal include much larger 50 to 156 seat modern jet aircraft. Additionally, the newer aircraft that have entered the market have advanced wing and engine designs that have improved fuel efficiency, resulting in reduced hydrocarbon emissions. Further, your Committee is advised that the advancement in jet engine technology has significantly reduced the community noise footprint. Yet despite these changes, the 240-passenger per half hour limitation has remained in effect.

Your Committee is advised that as a consequence of the current limitation, air carriers serving the Airport are unable to increase the size of their aircraft or start new service due to the lack of available passenger allocations in various slot periods. For example, with the operation of jetBlue's A-320 and E-190 (156 seats and 100 seats, respectively), the allocation for the two (2) half-hour periods (arrival and departure) would exceed the 240-passenger per half-hour limit. Subsequently, it also leaves two gate positions empty because of lack of passenger allocations. Similarly, four (4) 76-seater aircraft would exceed the two (2) half-hour passenger allocations for their arrival and departures by 128 passengers. Your Committee is advised that in addition to placing constraints on existing airlines serving the Airport, the passenger capacity limitation has resulted in the County being unable to attract new air carrier service. With aircraft manufacturers such as Embraer and Bombardier forecasting a market for approximately 7,000 new aircraft with larger seating capacities over the next 15 years, it is critical that the County address the current passenger capacity limitations at this time.

Your Committee is advised that in an effort to make the existing Terminal capacity limitation less onerous to existing airlines serving the Airport and to attract new air carrier service, it is proposed that the Airport Procedures be amended by redistributing the 240 passenger per half hour limitation over the course of 24-hours, thereby creating a daily maximum allocation of 11,520 passengers. This redistribution will remain subject to the actual physical constraints of the Terminal facilities. Specifically, the capacity to accommodate flights and passengers is constrained by the number of Terminal ramps and gates available. Likewise, the Terminal building remains subject to fire and safety limitations, which could limit the building's capacity at any given time. In this way, passenger allocations in underutilized half-hour periods, such as the overnight and weekend slots, could be applied to the most demanding slot periods, thus allowing for more efficient use of the Terminal space by the airlines. Your Committee is advised that under the current model, airlines exceeding the passenger allocation limitation in any half-hour slot are issued a violation letter with the requirement that they reduce their passenger loads to ensure continued compliance. Under the proposed model, so long as the *daily* average of 11,520 is not exceeded among all the airlines, the air carriers will remain in compliance with the procedures.

In sum, your Committee believes the proposed amendments to the Airport Procedures will make the existing limitations placed on airlines serving the Airport less restrictive, thereby improving the business relationship between the County and the air carriers serving the Airport.

The Planning Department has advised that based on its review, the proposed amendment of the Airport Procedures is an Unlisted Action, pursuant to Part 617 of the New York State Environmental Quality Review Act ("SEQRA"). A Resolution and Environmental Assessment Form (EAF) are attached to assist your Honorable Board in complying with SEQRA. Your Committee has carefully considered the EAF and the applicable SEQRA regulations. For the reasons set forth in the attached EAF, your Committee believes that this proposed action will not have any significant adverse impact

on the environment and accordingly recommends passage of the annexed Resolution prior to enacting the Local Law to amend the Airport Procedures.

Your Committee has been advised that pursuant to the Laws of Westchester County Section 209.171(2), the proposed Local Law is subject to permissive referendum because it changes a provision of law relating to contracts. Consequently, the proposed Local Law may not take effect until sixty (60) days after its adoption, assuming that within that time a petition protesting its adoption is not filed by the number of qualified electors qualified by law.

Your Committee has carefully considered the proposed legislation and recommends that your Honorable Board adopt the proposed Local Law that would amend the Airport Procedures.

It should be noted that a vote of not less than a majority of the voting strength of the Board of Legislators is required to pass the Local Law.

Dated: \_\_\_\_\_, 2016  
White Plains, New York

**COMMITTEE ON**

C/DLV 2-5-16





**RESOLUTION NO.     - 2016**

**RESOLVED**, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No.     -2016 entitled “A LOCAL LAW to amend Section 712.462 of the Laws of Westchester County in order to make the existing limitations on air carrier operations contained therein more flexible”. The public hearing will be held at     m. on the     day of     , 2016 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

Dated:     , 2016  
White Plains, New York