



U.S. Department
of Transportation
**Federal Aviation
Administration**

Feb 18, 2000

Mr. Breton K. Lobner
Senior Assistant City Attorney
City of Los Angeles, Airport Division
1 World Way
P.O. Box 92216
Los Angeles, CA 90009

Dear Mr. Lobner:

Thank you for your letter on behalf of the Los Angeles City Council regarding restrictions proposed at Van Nuys Airport (VNY). We appreciate the opportunity to provide further clarification on the issues you have raised. Responses to the second and third questions in your letter are provided below. The first question, whether the proposed 1990 "phase-out" rule is grandfathered under the Airport Noise and Capacity Act (ANCA), requires additional analysis. We will provide a response as quickly as possible.

(2) If the City acts to adopt just the proposed non-addition rule, does the City retain under grandfather authority the right to revisit the rule and make it stricter?

The Federal Aviation Administration (FAA) addressed this very issue in a January 18 letter to Congressman Brad Sherman (copy enclosed). In that letter, the FAA stated it "...is aware that the City of Los Angeles (the city) is contemplating the possibility that if the current, less-restrictive proposal is adopted, it may need to be made more restrictive in the future. In light of ANCA's purpose, the FAA believes it is reasonable to read the statute as preserving the grandfather status of any such future amendment that falls within the scope of the original pre-ANCA proposal."

(3) Are there any further clarifications associated with federal authorities applicable to amending the existing Van Nuys Abatement and Control Ordinance?

It is important to understand that the "grandfather" determination in the response to the previous question relates only to the applicability of ANCA to the proposed restrictions' application to Stage 2 aircraft operations. The determination of grandfather status under ANCA does not imply FAA endorsement or approval of any of the restrictions contained in the draft ordinance, nor does it reflect an FAA opinion concerning the ability of an airport user adversely affected by restrictions proposed at VNY to challenge any aspect of it, except

as to one aspect relating to unjust discrimination in its applicability to Stage 2 aircraft but not Stage 3 aircraft operations. This determination is not an appealable final agency order within the meaning of 49 U.S.C. 46110.

As you know, the National Business Aviation Association has expressed concerns about the proposed restrictions and has raised other issues in addition to ANCA. Moreover, although the Stage 2 restrictions that are "grandfathered" under ANCA are not subject to that statute's requirements, such restrictions must still meet standards under pre-existing federal law, including federal grant obligations. Airport noise and access restrictions must be fair and reasonable, may not be unjustly discriminatory, and may not impose an undue burden on interstate or foreign commerce. The ability of the proposed restrictions to meet these requirements should be thoroughly examined as part of the local process to consider adoption of the restrictions.

The FAA would be happy to discuss these matters further, as you and the city council further define the proposals.

Sincerely,

Woodie Woodward
Acting Associate Administrator for Airports

Enclosure

cc: Jeffrey Gilley, NBAA