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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 Torrance Airport Association,
12 Petitioner/Plaintiff,
13 vs.
14 City of Torrance, *et al.*,
15 Respondents/Defendants.

Case no. CV 24-2692-JFW(MBKx)
Assigned to the Hon. John F. Walter
**PETITIONER’S OPENING BRIEF IN
SUPPORT OF VERIFIED AMENDED
PETITION FOR WRIT OF ADMINISTRATIVE
MANDAMUS; TRADITIONAL MANDATE;
OTHER EXTRAORDINARY RELIEF; AND
INJUNCTIVE RELIEF DIRECTED TO THE
CITY OF TORRANCE ORDERING
COMPLIANCE WITH 49 U.S. CODE
SUBTITLE VII CHAPTER 401 AND
CALIFORNIA LAW**
Date: June 1, 2026
Time: 1:30 p.m.

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I. INTRODUCTION

The City of Torrance (“City” or “Respondent”) owns and operates the Zamperini Field airport (the “Airport” or “TOA”). Over the past several years, in response to a current and exacerbating commercial pilot shortage [AR01978-89; AR02063:25-2063:10], flight schools at Airport have seen operations increase significantly [AR01978; AR02063:13-24] (although still below historic peaks [AR00202]). In response to some resident complaints concerning this increased activity, the City – recognizing it could not regulate aircraft operations directly [AR01977- AR01978 (noting the City having received official guidance it cannot impose “flight restriction[s]”)] – elected to impose landing fees on aircraft operating at the Airport, later claiming – without evidence – that the fees were necessary to sustain the Airport financially.

The City, in enacting these fees, deliberately excluded Robinson Helicopter (“Robinson”), a major tenant at the Airport, and in so doing created an exclusive right in violation of federal law. Further, the City used non-existent economic need as a purported basis for these unreasonable fees, and unlawfully codified a special tax without voter approval.

II. STATEMENT OF FACTS

A. Government money has been expended on the Airport

The United States government built the Airport, then known as the Lomita Flight Strip, in or about 1941. [AR00009] The Airport was eventually, through a somewhat convoluted series of deeds and grants, transferred to the City, who (according to an analysis by the Federal Aviation Administration (“FAA”) [AR10056-10064]) is subject to a covenant “that the City must ‘maintain the project constructed thereon’ [...]” [AR10059], i.e., that “the City must maintain the Torrance Airport as an airport.” [*Id.*]

Over the years, the federal government has supplied the City with grant money for the improvement of the Airport [AR00404-405], as well as installing equipment

1 [AR00405], adding a control tower, a second runway, and an instrument approach system
2 and lighting, among other expenditures.

3 **B. The City has always sought to create exclusive right(s)**

4 When the City first began discussing what would ultimately become the ordinance
5 at issue here, from the very beginning “City Council requested [...] certain restrictions and
6 exemptions” be built into the landing fees. Originally, aircraft based at the Airport would
7 be excluded, except when operated by “flight schools with three or more aircraft in their
8 fleet” [AR07993], along with “Torrance-based rotary wing aircraft manufacturers” [*Id.*].
9 There is one rotary wing aircraft manufacturer at the Airport, Robinson Helicopter,
10 mentioned by name by City Council members: “I value Robinson Helicopter [...] they
11 should not be subject to landing fees.” AR02518:20-24; “I would never want to see us [...]
12 impose anything upon them that would detriment their business to our city.”
13 AR02523:14-22. When it came time to vote to impose landing fees, Council Member
14 Griffiths expressly stated: “I want to make sure that Robinson Helicopter operations are
15 exempted from landing fees.” AR07036:2-8.

16 The City’s staff reports confirm the targeted nature of this exception: “Currently,
17 there is only one operator at Torrance Airport that operates and maintains its own
18 helipads. [...] Since Robinson Helicopter is not using the runways and public helipad for
19 landings and is operating and maintaining its own helipads through its leasehold with the
20 City, Robinson Helicopter would be excluded from the landing fees.” AR07993.

21 **C. The City’s own research establishes the fees are unreasonable**

22 The City’s “market rate analysis” [AR07995] shows that a blanket assessment on all
23 aircraft, including based aircraft, would be relatively unique. Catalina Island is privately
24 held, and does not charge by weight. Camarillo and Oxnard Airports do not charge
25 aircraft under 12,500 lbs.; Napa Valley Airport and Charles M. Schultz Airport only
26 charge *commercial* aircraft below 12,500 lbs., and Santa Barbara Airport only charges
27 “Part 135” (commercial charter) or aircraft over 10,000 lbs. Only Santa Monica Airport
28

1 charges all aircraft, even light weight general aviation aircraft operating non-commercially,
2 and the City of Santa Monica adopted that mechanism specifically to curtail flight
3 operations at its airport – just as the City does here.

4 **D. Landing fees are not required to support the Airport**

5 For the first time, on November 28, 2023, City staff included in City Council
6 Agenda Item 10B an express finding claiming, “The landing fees, as adopted, are
7 necessary to offset the City’s costs incurred in maintaining and operating the airport
8 facilities.” AR07915. However, no evidence was presented or expressed to support this
9 finding, which appears to have been included solely to address the requirements of 49
10 U.S.C. 40116, *ipse dixit*.

11 In fact, the City’s staff confirmed, when questioned, that for at least “the last three
12 years for aeronautical operations [], the net [Airport] income has been between \$1.9
13 million to \$2.9 million.” AR08549:20–22. Staff also concedes: “There are no plans at this
14 time for any major improvements” [*Id.*] that would exceed the net income generated. (The
15 City’s staff predicted landing fees would generate an additional \$351,842 in annual
16 revenue. AR07994–995.)

17 **E. The City intended the landing fees to lessen Airport operations**

18 As early as a City Council meeting held November 8, 2022 [AR02455 *et seq*], the
19 City’s staff was referring to landing fees as an “additional tool to curb the number of
20 repetitive flights.” AR02462:17–19. City Council members at that meeting stated they were
21 “110 percent in support of trying to figure out a viable solution if that is landing fees ...”
22 AR02470:11–12, and that “landing fees [...] should be a no-brainer” in responding to “the
23 constant training operations.” AR02535:1–4. In a July 25, 2023 City Council meeting,
24 another Council member described the “landing fee [...] deterrent” [AR07017:8–12],
25 while skeptical the fees would “reduce noise level [sic]” [*Id.*], while another stated his
26 position as “a big supporter of landing fees [...] to reduce the amount of traffic over our
27 skies.” AR06947:2–17.

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1 (A Vice President at the City’s chosen landing fees assessment and collections
2 vendor, Vector Airport Systems, LLC (“Vector”), discussed this as well, noting the pilot
3 shortage (*supra*) and commenting: “I am not sure that training activities at TOA will abate
4 on their own.” AR12998.)

5 The City Council voted, at that meeting, to impose landing fees, AR07035:25-
6 AR07037:8.

7 **F. Torrance Airport Association objected**

8 Members of the Torrance Airport Association (“TAA”) objected to the landing fee
9 ordinance, in writing before (e.g., AR08281-AR08282; AR08488- AR08489), and in
10 person at, the November 28, 2023 City Council meeting where the City first read the
11 proposed landing fees ordinance (e.g., Peter Broen, President of the TAA, remarks at
12 AR08518- AR08519; Bill Tymczyszyn, Chair of the TAA's Noise Abatement Advisory
13 Committee, at AR08534- AR08535).

14 **G. The City adopts Ordinance 3972**

15 On December 12, 2024, the City Council adopted Ordinance No. 3927, imposing
16 landing fees at the Airport. AR08574. Specifically, the Ordinance amended the City’s
17 Municipal Code with a new Section 51.2.30, which contains subpart (a): “A landing fee
18 shall be charged to any individual or entity landing an aircraft at Torrance Airport.
19 Military, public safety, and medical operations shall be exempt from landing fees.
20 Landings on private helipads (as used in this section, a private helipad is a helipad that has
21 been authorized by the City of Torrance and is operated and maintained by a leaseholder
22 on their leasehold. A private helipad is not operated or maintained by the City of
23 Torrance nor supported by funds from the City of Torrance) that are operated and
24 maintained by a leaseholder pursuant to a lease with the City of Torrance shall be exempt
25 from landing fees.” AR08558-AR08562. (It is perhaps worth noting that the City’s own
26 Municipal Code is inconsistent with this provision, as Section 51.2.3(c) requires: “All take
27 offs and landings of aircraft **shall be made on the runway only.**” (Emphasis added.))
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1 Vector began billing aircraft operators for landing fees starting February 1, 2024.
2 AR15492.

3 **III. ARGUMENT**

4 **A. Standard of review**

5 An ordinance is a legislative act that is reviewable by writ of mandate. *Yes in My*
6 *Back Yard. v. City of Culver City*, 96 Cal.App.5th 1103, 1112-13 (2023).

7 **B. Federal law forbids the granting of exclusive rights**

8 The City, in enacting the landing fees ordinance specifically drafted to carve out an
9 exception for Robinson, is in violation of the “exclusive rights” provision codified at 49
10 U.S.C. § 40103(e): “A person does not have an exclusive right to use an air navigation
11 facility on which Government money has been expended.”

12 The Airport “an air navigation facility on which Government money has been
13 expended.” As set forth above, the City acknowledges it has both in the past received
14 federal grants, and that the federal government has, outside of the grant process, made
15 significant improvements at the Airport. The FAA’s records reflect that the Airport is
16 subject to the “statutory Exclusive Rights Prohibition” set forth in section 40103(e).

17 (Request for Judicial Notice, filed concurrently herewith.)

18 The exclusive rights provision is the oldest federal obligation affecting federally
19 funded airports ... The prohibition against exclusive rights [was] recodified at 49 United
20 States Code (U.S.C.) 40103(e) and applies to **any** airport upon which **any** federal funds
21 have been expended.” FAA Order 5190.6B, Airport Compliance Manual [AR07223-
22 AR07675] (the “Manual”), section 8.3(b) [AR07315] (emphasis added).

23 “Since 1938, there has been a **statutory** prohibition on exclusive rights (49 U.S.C. §
24 40103(e)) [independent of the parallel grant assurance requirement at 49 U.S.C. §
25 47107(a)(4)]. It currently states, ‘A person does not have an exclusive right to use an air
26 navigation facility on which Government money has been expended.’ (An ‘air navigation
27 facility’ includes, among other things, an airport. See ‘Definitions’ at 49 U.S.C. § 40102.)
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1 [...] This prohibition predates the parallel statutory grant assurance requirement enacted as
2 part of the AAI A. It is independent of the grant assurance requirement.” Manual, § 8.9(c)
3 [AR07323¹ (emphasis added)]. “The prohibition on exclusive rights also exists by
4 operation of federal statute, independent of the grant assurances ...” *In the Matter of*
5 *Compliance With Federal Obligations by the City of Santa Monica, California*, FAA
6 Docket No. 16-16-13, Interim Cease and Desist Order at 4 (December 12, 2016) (“SMO
7 C&D Order”), p. 3, citing 49 U.S.C. § 40103(e). This prohibition is perpetual at any
8 airport that has in the past accepted federal funds, independent of the present status of
9 those grants.

10 Section 40103(e) and Grant Assurance 23² both prohibit “constructive exclusive
11 rights,” i.e., where only a subset of airport users are allowed conduct an aeronautical
12 activity. “An exclusive right is defined as a power, privilege, or other right excluding or
13 debarring another from enjoying or exercising a like power, privilege or right. An exclusive
14 right may be conferred either by express agreement, by imposition of unreasonable
15 standards or requirements or by another means. Such a right conferred on one or more
16 parties, but excluding others from enjoying or exercising a similar right or right, would be
17 an exclusive right.” Manual ¶ 8.2 [AR07315].

18 The essence of any exclusive right is the enjoyment of a privilege unreasonably
19 denied to others”); *Maxim United, LLC v. Jefferson County Colorado*, FAA Docket no.
20 16-01-10, Director’s Determination, at 24 (April 2, 2002) (because complainant “was
21 denied the right to self-fuel, we find a constructive exclusive right was granted to the group
22 of other tenants who were allowed to self-fuel during this same period,” for the same
23 reasons that the FAA also found that unjust economic discrimination had occurred).

25 ¹ Not page numbered, apparently inadvertently; ECF No. 55-3, p. 101 (Page ID 7768)

26 ² Too, since the FAA has long has understood the prohibition on economic discrimination that
27 appears in Grant Assurance 22(a) to be the “mirror image” of the prohibition on exclusive rights that
28 appears in 49 U.S.C. § 40103(e) and Grant Assurance 23, the City’s violation of 49 U.S.C. § 40103(e)
must be examined against decisional precedent and other authority interpreting both Grant
Assurances 22 and 23.

1 The “private helipad” exemption is the City’s method of exempting Robinson
2 Helicopter from paying landing fees that all other users of the airport must now pay, and
3 creating an “exclusive right to use an air navigation facility on which Government money
4 has been expended” in violation of 49 U.S.C. Section 40103(e).

5 The City of Torrance itself identifies this as an exclusive right. Robinson Helicopter
6 gets excluded from paying landing fees while everyone else has must pay.

7 **C. The landing fees are arbitrary and capricious**

8 The City does not need landing fee revenue (\$351,842 predicted), on top of the
9 existing net revenues of between \$1.9 and \$2.9 million dollars, for the Airport to be self-
10 sustaining. The City pays lip service to capital projects, but cannot identify any such
11 actually planned projects that would exceed additional revenues. Since City does not
12 require revenue of landing fees to maintain or improve the Airport, the adoption of
13 Ordinance No. 3927 is in excess of the City’s police power. City cannot arbitrarily or
14 capriciously enact unneeded landing fees under its police power. As a result, the City’s
15 adoption and imposition of landing fees per Ordinance No. 3927 was, and is, arbitrary
16 and capricious because there is no evidence to support City’s express finding of economic
17 need.

18 The City’s arbitrary fees are in violation of 49 U.S.C. § 40116(e)(2), under which
19 the City may only “levy or collect ... *reasonable* ... landing fees, and other service charges
20 from aircraft operators for using” the facilities of the Airport. (Emphasis added.)

21 **D. The landing fees are an invalid special tax**

22 Per Government Code section 50076, landing fees at the Airport is a special tax
23 subject to the two-thirds vote requirement of section 4 article 13A of the California
24 Constitution.

25 As set forth above, the landing fees of Ordinance No. 3927 exceeds the reasonable
26 cost of providing the service or the regulatory activity for which they are charged.

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1 The City has not and cannot provide substantial evidence that the landing fees of
2 Ordinance No. 3927 is a reasonable cost of providing the service or the regulatory activity
3 for which it is charged.

4 As the City did not conduct an election to obtain voter approval to impose the
5 landing fees set forth in Ordinance No. 3927, those fees are an unreasonable,
6 unconstitutional special tax and therefore invalid.

7 **IV. CONCLUSION**

8 The City’s rationale for imposing the landing fees here is clear: It’s not economic, it
9 is designed to make the Airport less attractive to its users, to drive down operations.
10 Unable to do so by regulating aircraft operations themselves, the City impermissibly
11 adopted a landing fee scheme untethered to any economic justification and which
12 deliberately creates an exclusive right - landing at the Airport without paying a fee - just
13 for Robinson Helicopter. This attempt should not be countenanced. For the foregoing
14 reasons, this Court should vigorously enforce the public’s rights, codified for
15 decades in federal policy and statute. The declaratory and injunctive relief sought in the
16 Petition is appropriate to determine that the City has violated state and federal statutes,
17 and ensure that it does not violate the statute in a similar manner in the future.

18 Respectfully submitted,

19 DAVID M. SHABY II & ASSOCIATES

20 Date: March 9, 2026

/s/ R. Christopher Harshman

21 R. Christopher Harshman, Esq.
22 Attorneys for Torrance Airport Association
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