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**The Council of the City of New York**

**Briefing Paper of the Legislative Division**

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Hon. Amanda Farías, *Chair*

**Committee on State & Federal Legislation**

Hon. Shaun Abreu, *Chair*

November 29, 2022

**Oversight: New York City Heliport Operations**

1. **INTRODUCTION**

On November 29, 2022, the Committee on Economic Development, chaired by Council Member Amanda Farías, and the Committee on State and Federal Legislation, chaired by Council Member Shaun Abreu, will conduct an oversight hearing on *New York City Heliport Operations.* Witnesses invited to testify include representatives from the New York City Economic Development Corporation (NYCEDC), New York City & Co. (NYC & Co.), and other interested stakeholders.

1. **BACKGROUND**

*New York City Economic Development Corporation*

NYCEDC is a not-for-profit corporation comprising 27 board members, which contracts with the City of New York to oversee and administer a variety of City-sponsored economic development programs. As a not-for-profit entity, NYCEDC is required to achieve a public objective in its corporate operations.[[1]](#footnote-2) Operating under contract with the City, NYCEDC facilitates investments that aim to increase capacity, jobs, and employment opportunity in NYC.[[2]](#footnote-3) To carry out its economic development mission, NYCEDC invests in “major infrastructure upgrades, capital projects, and real estate development; manages City-owned properties . . . and works to enhance the City’s legacy and emerging business sectors.”[[3]](#footnote-4) NYCEDC’s portfolio spans a multitude of industries from manufacturing to entertainment to overseeing the operation of City heliports.

*Federal Aviation Administration*

The Federal Aviation Administration (FAA) is the largest transportation agency in the United States and regulates all aspects of civil aviation, which includes the airspace over the City.[[4]](#footnote-5) Under federal law, the federal government has exclusive jurisdiction over the airspace of the United States and states are preempted from enacting legislation governing the use of airspace.[[5]](#footnote-6) The Administrator of the FAA is charged with developing regulations for the use of airspace,[[6]](#footnote-7) which are contained in the Federal Aviation Regulations (FAR).[[7]](#footnote-8) Part 135 of the FAR regulates commuter and on demand aircraft, which includes helicopters. The FAA also has exclusive authority over flight routes for helicopters and other aircraft over the City.[[8]](#footnote-9)

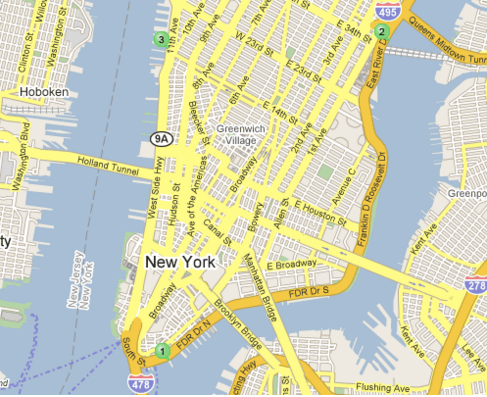
The federal government “regulates aircraft and airspace pervasively,”[[9]](#footnote-10) preempting regulation by state or local authorities including regulations “related to a price, route, or service of an air carrier.”[[10]](#footnote-11) However, there is a “proprietor exception” for state or local governments that operate an airport. This allows a state or municipal government from “carrying out its proprietary powers and rights,”[[11]](#footnote-12) so long as the exercise of that authority is “reasonable, nonarbitrary and non-discriminatory.”[[12]](#footnote-13)

*New York City Heliports*

There are three publicly-owned heliports in the City of New York that are available for public use: the East 34th Street Heliport, the West 30th Street Heliport and the Downtown Manhattan/Wall Street Heliport (“DMH”). There was a fourth public heliport at 60th Street, which the City closed in 1997.[[13]](#footnote-14) The East 34th Street Heliport was closed to sightseeing flights in 1997 when the City evicted the former tenant of the heliport, National Helicopter,[[14]](#footnote-15) and restricted operations to air taxi, general aviation, commuters and military flights.[[15]](#footnote-16)

In 1999, then-Mayor Giuliani’s administration conducted the City’s first Heliport and Helicopter Master Plan Study (“HHMPS”) to take a comprehensive look at the City’s heliport system.[[16]](#footnote-17) The study analyzed the operations of the three Manhattan-based heliports to guide “policy and development decisions pertaining to the City's heliport system.”[[17]](#footnote-18) The HHMPS recommended that sightseeing flights be prohibited from City-owned heliports, but concluded that there was little the Giuliani administration could do at the time to achieve such a ban.[[18]](#footnote-19) At the time, the New York State-owned West 30th Street Heliport was managed via contract with Air Pegasus of New York (“Air Pegasus”), a private tour operator, in effect until 2001;[[19]](#footnote-20) and the DMH was managed by the Port Authority of NY & NJ (“PANY/NJ”) under an agreement set to expire in 2005.[[20]](#footnote-21)

**Locations of New York City Heliports**

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1) Downtown Manhattan/Wall Street Heliport

2) East 34th Street Heliport

3) West 30th Street Heliport[[21]](#footnote-22)

*West 30th Street Heliport*

The West 30th Street heliport is owned by New York State, with oversight by the Hudson River Park Trust (HRPT). In 1998, the State delegated the authority to manage the Hudson River Park to the HRPT for the “planning and development of the Hudson river park as a public park,”[[22]](#footnote-23) and “to operate exclusively for purposes relating to the promotion of the health and social welfare of the people of the state.”[[23]](#footnote-24) As part of HRPT’s formative statute, any heliport within the Hudson River Park could only be operated as a “non-tourist/non-recreation heliport for commercial and emergency transportation use.”[[24]](#footnote-25) An activist group known as the Friends of Hudson River Park (FOHRP) filed suit against the Trust, Air Pegasus, and another helicopter operator in 2007 to enforce the non-tourist/non-recreation terms of the Trust’s formative statute.[[25]](#footnote-26) The Trust and Air Pegasus ultimately settled with FOHRP, agreeing to, among other things, cease sightseeing flights at the West 30th Street Heliport by April 2010.[[26]](#footnote-27)

*Downtown Manhattan Heliport & East 34th Street Heliport*

The DMH and East 34th Street heliports are both owned by the City and managed by the NYCEDC. The East 34th Street heliport contracts with operator Atlantic Aviation for corporate and charter flights,[[27]](#footnote-28) while the DMH has been operated by Saker Aviation since 2008, with corporate, charter and sightseeing traffic.[[28]](#footnote-29) Despite the Giuliani-era HHMPS advisory that once the West 30th Street Heliport closes, “the City should work with the Port Authority to ensure that the sightseeing traffic at this heliport does not shift to the Downtown Manhattan Heliport,”[[29]](#footnote-30) nearly all sightseeing traffic has in fact moved to the DMH.

In April 2010, the NYCEDC released an updated New York City Helicopter Sightseeing Plan (“the 2010 Plan”) to “mitigate the impact of helicopter tours on surrounding neighborhoods while maintaining the important industry.”[[30]](#footnote-31) The 2010 Plan eliminated so-called “short tour” flights, which lasted between four and eight minutes and represented between 15-20% of sightseeing flights at the time.[[31]](#footnote-32) The 2010 Plan also eliminated sightseeing tours over Central Park, the Empire State Building and Brooklyn, and restricted all sightseeing tour operators to follow one of two routes designated by the FAA to “maximize[e] aircraft distances from the Brooklyn Bridge Park . . . [and] transit the Hudson at 1,500 feet or above thereby mitigating noise heard from lower altitude flights.”[[32]](#footnote-33)

In February of 2016, NYCEDC and the Helicopter Tourism and Jobs Council announced an agreement to reduce the number of flights from DMH by 50%, resulting in approximately 30,000 fewer flights per year.[[33]](#footnote-34) As part of the agreement, NYCEDC and the DMH operators also agreed to share monthly reports on helicopter complaints with the Council. The types of flights currently flown out of the DMH include: (i) charter, tour, or sightseeing; (ii) government; (iii) commercial filming; (iv) news gathering; and (v) emergency flights, such as medical transport.[[34]](#footnote-35)

In July of 2022, NYCEDC issued a *Request for Proposals* (RFP) for heliport operations at the DMH.[[35]](#footnote-36) The selected operator would enter into a 5-year concession agreement to “operate, manage and maintain” the DMH with one five-year renewal option solely at the discretion of NYCEDC.[[36]](#footnote-37) The RFP application ensures the terms of the 2016 agreement are sustained and restricts the heliport operator to “no more than 29,651 tourist helicopter operations annually,” which would average out to roughly 81 flights per day. The RFP process closed in August of 2022 and at the time of this hearing, NYEDC was still evaluating RFP responses.[[37]](#footnote-38)

1. **HELICOPTER NOISE AND SAFETY INCIDENTS**

Helicopter-related noise complaints to New York City’s 311 call center increased from 10,359 in 2020 to 25,821 in 2021 with a vast majority of the complaints coming from Manhattan.[[38]](#footnote-39) During the past 5-years, 311 has experienced a *2,329% increase* in noise complaints related to helicopters.[[39]](#footnote-40) In addition to noise complaints, there has been numerous helicopter related accidents over the years. In April of 1997, a corporate helicopter taking off from a heliport on East 60th Street, crashed into the East River, killing one passenger and injuring three others.[[40]](#footnote-41) Later that same year, a helicopter was forced to make an emergency landing after clipping a Manhattan building, resulting in damage to the helicopter’s rotor. In 2007, a tour helicopter had to make an emergency landing in the Hudson River on its emergency pontoons.[[41]](#footnote-42) In 2009, a helicopter operated by Liberty Helicopter Tours collided with a small private plane over the Hudson River resulting in the deaths of all nine individuals aboard both crafts making the incident one of the deadliest helicopter accidents in New York City history.[[42]](#footnote-43) In October of 2011, a woman was killed and four others were injured when a tour helicopter crashed into the East River.[[43]](#footnote-44) In June of 2013, a tour helicopter carrying a family of four and their pilot made an emergency landing in the Hudson River after the helicopter lost power.[[44]](#footnote-45) In March of 2018, another helicopter operated by Liberty Helicopter Tours crashed in the East River resulting in the deaths of five passengers on board, however the pilot survived.[[45]](#footnote-46) This accident was the third involving Liberty Helicopter since 2007 and since this incident, the FAA banned flights that use restraints in which passengers cannot easily free themselves.[[46]](#footnote-47)

In an effort to address helicopter related noise and safety issues, the New York State Legislature passed A.8473-A and S.7493-A in June of this year, which would create a right of action against any person who creates an unreasonable level of sustained noise at ground level from certain helicopter flights and amend the Hudson River Park Act to further restrict helicopter use in the park.[[47]](#footnote-48) At the time of this hearing the legislation had not been delivered to Governor Hochul for ratification.

1. **CONCLUSION**

At this hearing, the Committees will hear what efforts the City has made to address concerns over noise and safety issues regarding corporate, charter, and tour flights by helicopters taking off and landing on property owned or managed by the City and NYCEDC. The Committees will also hear how federal or regional jurisdiction over helicopter noise and safety regulations affects the City’s management of heliports and rotorcraft.

1. *See* N.Y. Not-For-Profit Corp. Law § 201(b). [↑](#footnote-ref-2)
2. *See* New York City Mayor’s Management Report (September 2022) at 364, *available at* <http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2022/2022_mmr.pdf>. [↑](#footnote-ref-3)
3. *Id.* [↑](#footnote-ref-4)
4. *See* Federal Aviation Administration, “Mission,” *available* *at* [www.faa.gov/about/mission](http://www.faa.gov/about/missionv) [↑](#footnote-ref-5)
5. 49 USC § 40103 entitled “Sovereignty and use of airspace,” provides that “The United States Government has exclusive sovereignty of airspace of the United States.” [↑](#footnote-ref-6)
6. *Id.* [↑](#footnote-ref-7)
7. Title 14 Code of Federal Regulations (“CFR”). [↑](#footnote-ref-8)
8. *See* N.Y. City 311, “Noise From Helicopter,” *available at* <https://portal.311.nyc.gov/article/?kanumber=KA-02267> [↑](#footnote-ref-9)
9. *See, eg.* Nat’l Helicopter Corp. of Am. v. City of New York, 137 F.3d 81, 88 (2d Cir. 1998). (“Under the constitutional doctrine of preemption, states and localities are prohibited from enforcing laws and

   regulations that ‘interfere with or are contrary to, the laws of congress.’”). [↑](#footnote-ref-10)
10. 49 USC § 41713(b)(1). [↑](#footnote-ref-11)
11. 49 USC § 41713(b)(3). [↑](#footnote-ref-12)
12. Nat'l Helicopter Corp. of Am. v. City of New York, 137 F.3d 81, 87 (2d Cir. N.Y. 1998). [↑](#footnote-ref-13)
13. *See* Clifford Levy, *Giuliani Plans To Reduce Copter Flights,* N.Y. Times Apr. 30 1997 at B3. [↑](#footnote-ref-14)
14. *See* Nat'l Helicopter Corp. of Am. v. City of N.Y., 137 F.3d 81 (2d Cir. 1998). [↑](#footnote-ref-15)
15. *See* East 34th Street Heliport, AirNav.com, http://www.airnav.com/airport/6N5 (last visited Nov. 22, 2022). [↑](#footnote-ref-16)
16. *See* Press Release, Mayor’s Press Office, Mayor Giuliani Releases Heliport Master Plan Study, (Sep. 27, 1999) *available at* http://www.nyc.gov/portal/site/nycgov/index.jsp?epi-content=GENERIC&wcproxyurl=http%253A%252F%252Fwww.nyc.gov%252Fhtml%252Fom%252Fhtml%252F99b%252Fpr377-99.html&beanID=2027100071&viewID=proxy\_view\_secondary. [↑](#footnote-ref-17)
17. *Id.* [↑](#footnote-ref-18)
18. *See id.* [↑](#footnote-ref-19)
19. *See id.* [↑](#footnote-ref-20)
20. *See id.* [↑](#footnote-ref-21)
21. Map sourced from NYCTourist.com, *available at* <http://www.nyctourist.com/heliports_helicopter_airport_transportation.htm> [↑](#footnote-ref-22)
22. N.Y. Unconsol. Ch. 65, § 2(a) [↑](#footnote-ref-23)
23. N.Y. Unconsol. Ch. 65, § 2(g). [↑](#footnote-ref-24)
24. N.Y. Unconsol. Ch. 65, § 3(g)(v). [↑](#footnote-ref-25)
25. *See* Press Release, Friends of Hudson River Park, Friends of Hudson River Park Announces Agreement on Ending Tourist Flights at 30th Street Heliport by April 2010. (Jun. 20, 2008) *available at* <http://www.hudsonriverpark.org/assets/content/general/6.20.08-Heliport_Final_Release_June_20_2008.pdf> [↑](#footnote-ref-26)
26. *See id.* [↑](#footnote-ref-27)
27. See Atlantic Aviation, “East 34th Street Heliport, NY (6N5),” <https://www.atlanticaviation.com/location/6n5> (last visited Nov. 22, 2022) [↑](#footnote-ref-28)
28. S*ee* Saker Aviation Services, “Downtown Manhattan Heliport,” [http://www.downtownmanhattanheliport.com/](http://www.downtownmanhattanheliport.com/helicopterservice.html) (last visited Nov. 22, 2022) [↑](#footnote-ref-29)
29. Mayor Giuliani Releases Heliport Master Plan Study, *supra* note 9. [↑](#footnote-ref-30)
30. Press Release, New York City Economic Development Corporation, New York City Economic Development Corporation Releases New York City Sightseeing Plan (Apr. 30, 2010) *available at* <https://us1.campaign-archive.com/?e=366aaabca4&u=1ea59591e8f61f1e32eec4bca&id=a4c61bde40> (last visited Nov. 28, 2022). [↑](#footnote-ref-31)
31. *See id.* [↑](#footnote-ref-32)
32. *Id.* [↑](#footnote-ref-33)
33. *See* Press Release, NYCEDC, “NYCEDC And Helicopter Tourism & Jobs Council Announce New Measures to Reduce Helicopter Noise And Impacts Across New York City,” (Feb. 1, 2016) *available at* <https://edc.nyc/press-release/nycedc-and-helicopter-tourism-jobs-council-announce-new-measures-reduce-helicopter> [↑](#footnote-ref-34)
34. *See* N.Y. City 311, “Noise From Helicopter,” *available at* <https://portal.311.nyc.gov/article/?kanumber=KA-02267> [↑](#footnote-ref-35)
35. *See* NYCEDC, “Downtown Manhattan Heliport Operator Request for Proposals” July 13, 2022 (on file with Committee Staff). [↑](#footnote-ref-36)
36. *Id* at 12. [↑](#footnote-ref-37)
37. *Id*. [↑](#footnote-ref-38)
38. *See* Patrick McGeehan and Michael Gold, *As Helicopters Fill the Skies, New Yorkers Just Want Some Peace*, N.Y. Times, Oct. 28, 2021, *available at* <https://www.nytimes.com/2021/10/21/nyregion/nyc-helicopter-noise-complaints.html> [↑](#footnote-ref-39)
39. *See* Gale Brewer, *Chop This Problem Down to Size,* N.Y. Daily News, May 5, 2022 *available at* <https://www.nydailynews.com/opinion/ny-oped-chop-this-problem-down-to-size-20220505-vdq43wl4cbazjkapllajm274aq-story.html> [↑](#footnote-ref-40)
40. *See* Matthew Purdy, *Executive Dies and 3 are Hurt in An East River Copter Crash*, N.Y. Times, Apr. 16, 1997, *available at* <https://www.nytimes.com/1997/04/16/nyregion/executive-dies-and-3-are-hurt-in-an-east-river-copter-crash.html> [↑](#footnote-ref-41)
41. *See* Manny Fernandez, *Copter Crashes in Hudson but No One is Hurt,* N.Y. Times, Jul. 8, 2007, *available at* <https://www.nytimes.com/2007/07/08/nyregion/08chopper.html> [↑](#footnote-ref-42)
42. *See* Patrick McGeehan, *Collision Revives Debate Over Hudson Tours,* N.Y. Times, Aug. 10, 2009, *available a*<https://www.nytimes.com/2009/08/11/nyregion/11copter.html> [↑](#footnote-ref-43)
43. # *See* Richard Esposito, *et al*., *New York Helicopter Crash: Woman On Birthday Tour Dies in East River*, ABC News, Oct. 4, 2011, *available at* <https://abcnews.go.com/US/york-helicopter-crash-woman-celebrating-birthday-family-dead/story?id=14666235>

    [↑](#footnote-ref-44)
44. *See* Eric Anderson, *Helicopter Makes Emergency Landing in Hudson,* LongIsland.com, Jun. 30, 2013 *available at* <https://www.longisland.com/articles/06-30-13/helicopter-makes-emergency-landing-in-hudson.html> [↑](#footnote-ref-45)
45. *See* Matthew Haag and Al Baker, *East River Helicopter Crash Kills Five in New York, Pilot Survives,* N.Y. Times, Mar. 11, 2018 <https://www.nytimes.com/2018/03/11/nyregion/new-york-city-helicopter-crash.html> [↑](#footnote-ref-46)
46. *See* Federal Aviation Administration, “Order 8900.4, Emergency Order of Prohibition Pertaining to ‘Doors-Off’ Flight Operations for Compensation or Hire” Jul. 8, 2019, *available at* <https://www.faa.gov/documentLibrary/media/Order/FAA_Order_8900.4.pdf> [↑](#footnote-ref-47)
47. *See* N.Y. State Assembly Bill No. A.8473-A/S07493-A *available at* <https://nyassembly.gov/leg/?bn=A08473&term=2021> [↑](#footnote-ref-48)