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The East Hampton Star

To the Editor:

Earlier this month—see the Star's 13 October issue—the Wilkinson team at Town Hall spent an untold amount of taxpayer money bringing their many hundred dollars an hour aviation lawyer in from Denver for several days to further befog the airport noise discussion. Just in time for our Town Board election, he presented a carefully-crafted political message in support of the Wilkinson team's limited airport policies. Carefully-crafted but grossly misleading.

The path to real abatement of the ever increasing community noise from jets, helicopters, seaplanes, and touch-and-go's is quite clear to everyone not beholden to jet and helicopter users and airport business and other interests. It requires potential night-time and weekend curfews, limiting individual aircraft noise levels, and restrictions on overall numbers of landings, takeoffs, and touch-and-go's.

But East Hampton in the past has accepted subsidy funds for airport construction from the Federal Aviation Administration. Those FAA grants carry with them 39 contractual obligations called "grant assurances" that last for 20 years from the grant date. Four of the 39 prevent East Hampton from imposing the mandatory effective noise abatement rules such as curfews. Those four grant assurances, however, expire in 2014.

In good news for us, the federal appeals court having jurisdiction over East Hampton (the U.S. Second Circuit Court of Appeals) has endorsed the power of the municipal airport proprietor not burdened by grant assurances to impose such noise abatement measures in the total absence of approval by the FAA.

In other words without grant assurances, there is no need for FAA approval. And so, when East Hampton's four restrictive grant assurances expire in 2014, East Hampton will be able to impose curfew and related mandatory noise abatement measures. It can take real local control of airport noise in about three years.

That was the National Helicopter case, decided in 1998 and not reversed or overruled.

Yet the Wilkinson team lawyer tells us that "we do not know" whether FAA approval of curfews and other airport noise abatement rules would be necessary for East Hampton after the key grant assurances expire in 2014.

Glibly passing over the 1998 National Helicopter case, he reports that, since a 1990 congressional act, only two municipalities of which he is aware have sought such approval, one succeeding and one failing. But so what? In both cases those municipalities

had themselves sought such approval because they had received and wanted to continue receiving the FAA money that unfortunately carried the restrictive grant assurances.

So much for "we do not know."

The political argument limps on further, however, referring to general standards of law and the Constitution, such as reasonableness and nondiscrimination, that will apply even without grant assurances. But again, those relevant standards were applied by the court in the 1998 National Helicopter case and they did not prevent the court from allowing the noise abatement with no FAA involvement.

On the basis of all that spin, the Wilkinson team and their lawyer want us to believe, according to the Star's 13 October report, that the possibilities for the Town to gain federal approval to enact restrictions such as
curfews "will change slightly but only slightly" after our key grant assurances expire in 2014.

By this legerdemain, we should forget about the controlling law pronounced by our own federal appeals court.

Perhaps the most blatantly political aspect of this advocacy is the added assertion that the town's current policies of voluntary noise limits, rerouting helicopters, and installing a control tower constitute a "scalpel approach" that can achieve "75, 80, 90 percent" of what real local control would do. That is pure hyperbole, with virtually no basis in fact.

While the community watches the scalpel approach, Town Hall wants to apply as soon as possible to the FAA to subsidize repairs to airport deer fencing thus starting another 20 year period of grant assurances. Since such a minor project can well be funded out of existing airport surpluses of as much as $1.5 million, what could be the need for FAA deer fencing money?

The Wilkinson team's only need is to lock in all the grant assurances for another 20 years. That way, they and their successors can continue to hide behind federal rules and avoid local responsibility for protecting the public so they instead can protect their miniscule but big money group of airport-interest political patrons.

This so called scalpel really is more a sledge hammer over the heads of the public.

Sincerely,
Charles A. Ehren, Jr.