



KAPLAN KIRSCH ROCKWELL

30TH ANNUAL AAAE BASICS OF AIRPORT LAW WORKSHOP  
AND 2014 LEGAL UPDATE | OCTOBER 19-21, 2014

# WORKSHOP GUIDE



AMERICAN ASSOCIATION



OF AIRPORT EXECUTIVES



International Municipal  
Lawyers Association

Advancing Excellence in the practice of Local Government Law

# Useful Conference Information

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- **Conference Materials.** All presentations are available on the flash drive provided to attendees when you registered. If you have misplaced your flash drive or want internet access, point your browser to [www.airportlawconference.com](http://www.airportlawconference.com) for both the presentations and all the latest information about the conference
- **CLE Accreditation.** It is the responsibility of each participant to file the appropriate paperwork with your state bar for continuing legal education credit for this course. At the time of printing, we have already secured credit authorization from Pennsylvania and Colorado, and our application with Georgia is pending. CLE forms for those states will be made available with the conference materials on the flash drive and on the website [www.airportlawconference.com](http://www.airportlawconference.com). In the past, we have found that many states have offered CLE credits for this conference. To obtain such credit, participants have typically provided a copy of the course agenda and speaker biographies. If you have questions or need additional documents to assist with your state filing, contact Melissa Sabatine at AAEE at the conference or by e-mail at [Melissa.Sabatine@aaee.org](mailto:Melissa.Sabatine@aaee.org).
- **TRB Resources.** At the end of this workshop guide is a list of the legal research digests which have been prepared under the aegis of the Transportation Research Board's Airport Cooperative Research Program. All of these publications are available for download free-of-charge at the TRB website, [www.trb.org](http://www.trb.org).
- **Airport Law Alert.** If you would like to stay abreast of airport law developments throughout the year, you may want to subscribe to the semi-annual *Airport Law Alert*, which Kaplan Kirsch & Rockwell publishes. It contains a summary of recent regulatory, statutory, policy and case law developments. If you do not already subscribe, send an e-mail with "Subscribe" in the subject line and include your contact information to [airportlawalert@kaplankirsch.com](mailto:airportlawalert@kaplankirsch.com).
- **Questions?** During the conference, if you have questions about the conference, feel free to contact Melissa Sabatine or other AAEE staff or any of the Kaplan Kirsch & Rockwell attorneys.



## AGENDA

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### Sunday, October 19

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- 2:00 p.m. – 7:00 p.m.      **REGISTRATION**
- 3:00 p.m. – 3:30 p.m.      **INTRODUCTION TO THIS CONFERENCE AND TO AIRPORT LAW**  
Peter J. Kirsch, Kaplan Kirsch & Rockwell LLP
- This session is designed primarily for new attendees and will provide an introduction research tools and the non-traditional sources for airport law. It will provide a basic explanation for how and why airport law is not the same as aviation law, the law governing other transportation modes or more general municipal law. This session will be especially helpful for the non-lawyers and first-time attendees of the workshop.
- 3:45 p.m. – 5:15 p.m.      **HISTORY OF AIRPORT LAW**  
Daniel S. Reimer, Denver International Airport
- This session is a revision of a popular presentation from several years ago about the history of airports and the evolution of airport law in the United States, the changing role of local, state and federal governments. It is designed to provide some context for understanding why legal authority is divided among different agencies and why the United States' airport law scheme is unique among other industrialized nations.
- 5:30 p.m. – 7:00 p.m.      **OPENING RECEPTION**

### Monday, October 20

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- 8:00 a.m. – 8:30 a.m.      **REGISTRATION AND CONTINENTAL BREAKFAST**
- 8:30 a.m. – 9:00 a.m.      **WELCOME**  
Melissa Sabatine, Vice President – Regulatory Affairs, AAEE  
Cathy Hampton, City Attorney, City of Atlanta
- 9:00 a.m. – 9:45 a.m.      **FUNDAMENTALS OF AIRPORT LAW – PART I (FEDERAL REGULATION)**  
Peter J. Kirsch, Kaplan Kirsch & Rockwell LLP
- This session will explore the manner in which the federal government (primarily but not exclusively the FAA) regulates airports and the activities of airport proprietors. It will discuss those areas where federal regulation is pervasive, where legal authority is shared and where there is only limited federal regulatory oversight.
- 9:45 a.m. – 10:30 a.m.      **FUNDAMENTALS OF AIRPORT LAW – PART II (USERS/ STAKEHOLDERS)**  
John E. Putnam, Kaplan Kirsch & Rockwell LLP
- Airport proprietors have relationships with myriad users and stakeholders from aircraft operators and fixed base operators to passengers, other government agencies and neighboring jurisdictions. This session will explore the different legal implications of each of these relationships and how they are distinct or interrelated.
- 10:30 a.m. – 10:45 a.m.      **MORNING REFRESHMENT BREAK**

10:45 a.m. – 11:45 a.m.

**AIRPORT FINANCE – PART I: SOURCES OF REVENUE FOR AIRPORTS**

*John E. Putnam, Kaplan Kirsch & Rockwell LLP (Moderator)*

Sheri Errico, Leigh Fisher Associates

Frank San Martin, Federal Aviation Administration

Thomas R. Devine, Airports Council International – North America

While lawyers are often not accountants or financial analysts, airport lawyers need to understand the unique legal structure under which airports generate revenue and the constraints on expenditure of airport funds. Especially for lawyers who may be more familiar with other local government functions, airport finance can seem to be a strange and unfamiliar world. The basics of airport finance are broken into two sessions. This first session focuses on how airports earn revenue – the sources, the regulatory constraints on how airports earn revenue and the creative sources of revenue which airports have found in a world of limited resources.

12:00 p.m. – 1:00 p.m.

**INTRODUCTION**

Melissa Sabatine, Vice President – Regulatory Affairs, AAAE

**LUNCH – KEYNOTE ADDRESS**

Eduardo Angeles, Associate Administrator for Airports, Federal Aviation Administration

1:15 p.m. – 2:15 p.m.

**BREAK-OUT #1 – COMPLYING WITH FEDERAL GRANT OBLIGATIONS**

**1A – FAA COMPLIANCE – ENFORCEMENT, PART 16 AND RECENT LITIGATION**

W. Eric Pilsk, Kaplan Kirsch & Rockwell LLP

Jonathan Cross, Federal Aviation Administration

Randall Fiertz, Federal Aviation Administration

Interactions between airports and the FAA can be complex and even contentious if airport lawyers do not understand the basic principles underlying the FAA programs for compliance with grant assurance obligations. This session will provide practical guidance on how lawyers can advise their clients on maintaining compliance with grant obligations and how to interact with the FAA when compliance problems do arise. The session will also review recent FAA compliance decisions and provide guidance on the latest FAA policies on the most common compliance problems.

**1B – FEDERAL DBE REQUIREMENTS FOR CONTRACTS AND CONCESSIONS**

Rebecca MacPherson, Jones Day

Allison I. Fultz, Kaplan Kirsch & Rockwell LLP

Even in times of tight federal budgets, federal funding remains critical for airport capital projects. Understanding the regulatory and practical requirements for the contracting process for federally-assisted projects is essential for such funding. This session will examine the contracting process from proposals to contracts to project completion and the federal requirements at each stage.

2:15p.m. – 3:00 p.m.

**ENVIRONMENTAL ISSUES FOR AIRPORT OPERATIONS AND DEVELOPMENT**

*Catherine M. van Heuven, Kaplan Kirsch & Rockwell LLP (Moderator)*

Kristen Rectenwald, Hartsfield-Jackson Atlanta International Airport

Jackie Sweatt-Essick, Federal Aviation Administration

Securing environmental approvals for airport projects often involves the complex interplay of federal, state and local environmental review processes. These processes provide many traps for the uninformed and opportunities for project opponents to delay or even halt projects. This session will examine best practices for navigating the environmental review process and will discuss measures to ensure continuing compliance with environmental reporting and monitoring requirements. The speakers will also discuss the latest developments in substantive environmental law as they affect airport operations and development of new airport facilities

- 3:00 p.m. – 3:15 p.m. AFTERNOON REFRESHMENT BREAK
- 3:15 p.m. – 4:00 p.m. **AIRPORT PLANNING, DEVELOPMENT AND LAND ACQUISITION**  
 Catherine M. van Heuven, Kaplan Kirsch & Rockwell LLP  
 Jennifer Andrews, C.M., Hartsfield-Jackson Atlanta International Airport
- Airport planning and development decisions occur in a highly regulated environment. Airport lawyers need to understand the fundamentals of airport planning to provide counsel on the legal implications of long-term planning decisions. This session will examine the legal issues implicated by airport planning and the process and constraints which accompany the purchase (or sale) of airport property.
- 4:00 p.m. – 5:30 p.m. **AIRPORT FINANCE – PART II: UNDERSTANDING RULES ON USE OF AIRPORT REVENUES**  
*John E. Putnam, Kaplan Kirsch & Rockwell LLP (Moderator)*  
 Nancy Kessler, U.S. Department of Transportation  
 Randall Fiertz, Federal Aviation Administration  
 Thomas R. Devine, Airports Council International – North America
- This second session on the basics of airport finance will focus on how airports use their revenue, the legal and practical restrictions on how revenue is used and the latest developments in federal policy and law on use of airport revenue. This session will also address the legal limitations on use of revenue for non-aeronautical purposes and how airports have been able to find creative approaches within those limitations.

## Tuesday, October 21

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- 8:00 a.m. – 8:30 a.m. REGISTRATION AND CONTINENTAL BREAKFAST
- 8:30 a.m. – 9:30 a.m. **AIRPORT SECURITY – WORKING WITH TSA**  
 Mary Kate Whalen, Deputy Chief Counsel, TSA
- The annual presentation from the office of TSA's Chief Counsel on TSA legal issues is often the highlight of the conference. Senior TSA lawyers provide an update on current legal issues facing the agency and provide a perspective on how TSA interacts with local law enforcement, airport staff, and airport counsel. This session will provide a frank, off-the-record discussion of legal problem facing airport security.
- 9:30 a.m. – 10:00 a.m. **UPDATE ON LATEST TRANSPORTATION RESEARCH BOARD RESEARCH**  
 Marci Greenberger, Transportation Research Board
- The Transportation Research Board's Airport Cooperative Research Program produces legal research digests and original research reports on topics of interest to the airport community. The TRB staff member responsible for overseeing the research program will provide an update on the latest reports and discuss forthcoming research topics.
- 10:00 a.m. – 10:15 a.m. MORNING REFRESHMENT BREAK
- 10:15 a.m. – 11:15 a.m. **BREAK-OUT #2 – LEASING AND CONTRACTING ISSUES**
- 2A – NEGOTIATING AIRLINE USE AND LEASE AGREEMENTS**  
 Stephen H. Kaplan, Kaplan Kirsch & Rockwell LLP  
 Eric T. Smith, Kaplan Kirsch & Rockwell LLP
- Airports traditionally entered into long term use-and-lease agreements with airlines which were fairly standard and subject to only limited negotiation. The world is different today – airports now more often enter into shorter, 5-year agreements and

each airline has its own particular needs or financial demands. Therefore, the lawyer's role has become far more prominent in negotiating such agreements.

## **2B – LEASING OF GENERAL AVIATION FACILITIES**

*Peter J. Kirsch, Kaplan Kirsch & Rockwell LLP (Moderator)*

Clara Bennett, Boca Raton Airport Authority

Marty Lenss, Rochester (MN) Airport Company

Increasingly, airports are turning to non-aeronautical leases as a convenient tool for producing revenue. These leases can range from vaguely airport-related enterprises to commercial leases which have little or no nexus to the airport. Understanding the legal requirements which constrain non-aeronautical lease is critical for airport lawyers because those constraints are so different from normal local government leases.

11:15 a.m. – 12:15 p.m.

## **BREAK OUT #3 – SAFETY AND LIABILITY**

### **3A – AIRPORTS AND AIRSPACE: DRONES AND NEXTGEN**

Allison I. Fultz, Kaplan Kirsch & Rockwell LLP

John E. Putnam, Kaplan Kirsch & Rockwell LLP

While airspace issues are generally the responsibility of the FAA, two recent developments in the use of airspace have attracted attention of airports. Almost daily, the daily press contains articles about drones – their operation, the safety and privacy implications of their use, and the uncertain status of their regulation. The trade press is also filled with news about NextGen – the FAA's transition from radar-based to a satellite-based navigation throughout the system. This session will examine the advent of drones and the introduction of NextGen from an airport perspective – what issues airport proprietors need to consider and what obligations airports have to users of these new systems.

### **3B – AIRPORT PROPRIETORS' EVOLVING SAFETY OBLIGATIONS**

Peter J. Kirsch, Kaplan Kirsch & Rockwell LLP

The obligation of airport proprietors for safety is an evolving legal landscape. While the FAA remains primarily responsible for safety in the national system, airports have their own unique role to play.

12:30 p.m. – 1:30 p.m.

## **LUNCH – 2014 SUPREME COURT REVIEW**

Chuck Thompson, International Municipal Lawyers Association

Chuck Thompson provides an amusing and thought-provoking examination of last session's Supreme Court decisions as they affect the operations of local governments and the legal issues which government lawyers must confront.

1:45 p.m. – 2:30 p.m.

## **ETHICS FOR AIRPORT LAWYERS: MAINTAINING CONFIDENTIALITY IN A HIGHLY PUBLIC ENVIRONMENT**

W. Eric Pilsk, Kaplan Kirsch & Rockwell LLP

F. Joseph McMackin III, Esq., Naples Municipal Airport Authority

Maintaining client confidences is an absolute foundation for the attorney-client relationship. But lawyers who work for public agencies – especially agencies like airports whose activities can be subject to intense public and press interest – face an additional complexity because of state and local open meetings, open records and similar statutes. This session will examine best practices for ensuring the confidentiality of the relationship between an airport lawyer and airport management.

2:30 p.m. – 3:30 p.m.

## **LATEST REGULATORY AND POLICY DEVELOPMENTS**

Eric T. Smith, Kaplan Kirsch & Rockwell LLP

John E. Putnam, Kaplan Kirsch & Rockwell LLP

This session will provide a brief review of recent regulatory developments in airport law and new policies which airports have had to address. Among the topics will be discussions of the potential transfer of responsibility for security functions from TSA to airports, the funding of air traffic control towers, the new safety management

obligations being rolled out for airports, renewed attention to tall structures near airports, the advent of Uber and other ride-share programs, and other recent developments. The panel will also allow time for the audience to ask about new topics of interest to the audience.

3:30 p.m. – 3:45 p.m.

AFTERNOON REFRESHMENT BREAK

3:45 p.m. – 4:30 p.m.

**NON-AERONAUTICAL DEVELOPMENT**

Stephen H. Kaplan, Kaplan Kirsch & Rockwell LLP  
Peter J. Kirsch, Kaplan Kirsch & Rockwell LLP

Non-aeronautical development has become an increasingly important revenue tool for airports. Use of airport property for revenue generation, while permitted under applicable law, is complex and requires navigation of many federal and sometimes local requirements. This session will address the complexities and opportunities presented by non-aeronautical development, the models that airports have used to accomplish such developments, and the considerations for airport lawyers in negotiating arrangements with private sector developers.

4:30 p.m. – 4:45 p.m.

**CONFERENCE WRAP UP**

# Workshop Faculty

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**Jennifer L. Andrews, C.M.**

Assistant City Attorney  
City of Atlanta Department of Law  
68 Mitchell Street, SW, Suite 4100  
Atlanta, GA 30303  
Phone: (404) 330-6472  
jennifer.andrews@atlanta-airport.com

Jennifer focuses her practice on advising the Department of Aviation on intellectual property, information technology, taxation, airline bankruptcy, first amendment issues, and a variety of contract matters. Prior to joining the Law Department, Jennifer worked in the Washington, D.C. office of Eckert Seamans Cherin and Mellott LLC where she advised international airlines on the numerous federal and local law requirements to establish and maintain air service to the United States. Prior to starting her aviation practice, Jennifer advised government contracting firms on general business matters and set-aside preferences in government contracting. Jennifer is a graduate of Washington and Lee University School of Law and the University of Georgia. Jennifer earned her Certified Member (CM) designation from AAEE in July of 2014.

**Eduardo A. Angeles**

Associate Administrator for Airports  
Federal Aviation Administration  
Office of the Associate Administrator for Airports  
(ARP)  
800 Independence Avenue SW  
Washington, DC 20591  
Phone: (202) 267-9471  
eduardo.angeles@faa.gov

Eduardo A. Angeles serves as the Federal Aviation Administration's Associate Administrator for Airports. He oversees a \$3.5 billion annual Federal airport grants program and passenger facility charge collections totaling \$2 billion. He also manages programs for national airport planning and development, including safety standards, design and engineering, certification, environmental processing, and financing.

Previously, Eduardo served as Senior Assistant City Attorney for the Los Angeles City Attorney's Office including as General Counsel to Los Angeles World Airports where he oversaw legal matters for four major airports in southern California: Los Angeles International, Ontario International, Van Nuys, and Palmdale. Before moving to Los Angeles, he served in the San Francisco City Attorney's Office assigned for 8 years to the San Francisco International Airport's Legal Division.

Eduardo earned his undergraduate degree from the University of California at Santa Barbara and his law degree from the University of California, Hastings College of the Law. He was an Adjunct Faculty Member at Loyola Law School in Los Angeles and served on the State Bar of California's Committee of Bar Examiners.

**Clara E. Bennett**

Executive Director  
Boca Raton Airport  
3701 FAU Boulevard  
Suite 205  
Boca Raton, FL 33431  
Phone: (561) 391-2202  
Cell: (561) 325-5199  
clara@boccaairport.com

Clara Bennett is the Executive Director of the Boca Raton Airport Authority, where she leads a team of dedicated aviation professionals in executing business, operations, marketing, and development programs at the Boca Raton Airport (BCT).

Clara has more than 22 years of experience as an airport executive. For over 20 years, prior to joining the Boca Raton Airport Authority, she served as Manager of Fort Lauderdale Executive Airport (FXE), directing the operation and administration of the Executive Airport, the 200-acre Airport Industrial Airpark, the John Fuhrer Downtown Heliport, and Foreign Trade-Zone #241.

Clara is a licensed pilot and holds a Bachelor of Science degree in Aviation Management from Florida Institute of Technology and a Master of Business Administration from Florida Atlantic University. She also maintains several professional affiliations including serving as past President of the Florida Airports Council and a current Member of the Board of Directors of the National Air Transportation Association (NATA).

**Jonathan W. Cross**

Branch Manager – Airports Law Branch  
Federal Aviation Administration  
Office of the Chief Counsel  
800 Independence Avenue, SW  
Room 222 - AGC-610  
Washington, DC 20591  
Phone: (202) 267-3199  
Jonathan.Cross@faa.gov

Mr. Cross is the Senior Managing Attorney for Airport Access with the FAA's Office of the Chief Counsel, Airports and Environmental Law Division. His practice includes, among other things, use of airport revenue, airport privatization, grant compliance, rates and charges, noise, and Federal preemption issues. Mr. Cross has a B.A. from the University of Virginia (1984), a J.D. from the University of Denver College of Law (1988), and an M.A. from Georgetown University (Literature, 2004). During law school, Mr. Cross served as an associate editor of the Transportation Law Journal and clerked for an NTSB administrative law judge. After serving as a DOT Honors Attorney, Mr. Cross joined the FAA in 1989 as a staff attorney. Mr. Cross is the author of Airport Perimeter Rules: An Exception to Federal Preemption, Transportation Law Journal (1988), and The Wright Brothers Flying 100 Years Later, TransLaw (2003). An instrument-rated pilot, Mr. Cross acquired his private pilot's license at 17 years of age, has logged about 270 hours of flight time in powered aircraft and gliders. In 1993, Mr. Cross was selected to serve on the professional staff of the National Commission to Ensure a Strong Competitive Airline Industry, assisting in the making of policy recommendations to the President and the Congress. Mr. Cross is the recipient of the Chief Counsel's Excellence Award and numerous special achievement awards. Mr. Cross, an active member of the ABA Forum on Air and Space Law, serves as the Managing Editor of the Forum's Air & Space Lawyer.



# Workshop Faculty

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**Thomas R. Devine, Esq.**  
General Counsel  
ACI-NA  
1615 L. Street, NW  
Suite 300  
Washington, DC 20036  
Phone: (202) 293-8500  
tdevine@aci-na.org

Tom Devine is the General Counsel of Airports Council International – North America. He provides legal and strategic counsel to the ACI-NA President, Board, and staff, and represents the interests of airports in regulatory, administrative, and judicial proceedings, as well as government-industry task forces and professional associations. He assists airport members on legal issues and serves as secretary to the Legal Affairs Committee.

Prior to rejoining ACI-NA in April 2014, Tom spent 22 years representing airports in private practice on matters relating to rates and charges, use of airport revenue, PFCs, air service incentives, and other issues involving implementation of airport initiatives, while complying with federal requirements. He also served as General Counsel to the National Airline Commission in the summer of 1993, and spent 6 years as an FAA attorney in the Legislative Staff of the Chief Counsel's Office, where he reviewed and drafted legislation, and prepared agency witnesses for congressional hearings.

Tom has chaired the Rising Hope Administrative Board for the past 3 years. He received a J.D. from Stanford Law School and an A.B. in Psychology from Stanford University.

**Sheri L. Enrico**  
Director  
LeighFisher  
2032 Monroe Avenue  
Belmont, CA 94002  
Phone: (650) 593-3003  
Cell: (650) 759-8430  
sheri.enrico@leighfisher.com

Sheri Enrico has over 30 years of experience in financial and economic consulting and management for airports, including strategic financial planning, capital program development, financial feasibility studies, rates and charges analyses, airline lease negotiations, passenger facility charge (PFC) programs, benefit/cost analyses, letter of intent grant applications, rental car financing and customer facility charges (CFCs), privatization assessments and analyses, governance reviews, organization and management studies, air cargo financing evaluations, fuel system business planning, aviation market analyses, and forecasts of aviation demand.

Sheri spent two years as the Finance Director for San Francisco International Airport where she directed the capital and operating budgets, bond issues, airline rate-setting, PFC applications, risk management, AIP grant strategies, traffic and concession reporting, airline coordination on capital projects and rates and charges, investment policy, and financial strategies.

She was the principal investigator of the National Academies Airport Cooperative Research Program (ACRP) Report 66: Guidebook for Considering and Evaluating Airport Privatization. Sheri also managed bond feasibility studies in support of the issuance of over \$6 billion in airport revenue bonds, including bonds sold to finance improvements at the airports serving Boston, Burbank, Charleston (South Carolina), Cleveland, Denver, El Paso, Fresno, New York (John F. Kennedy), Orange County (John Wayne), Orlando, Pittsburgh, Raleigh-Durham, Richmond, Sacramento, and Tucson.

Sheri holds a B.A. in political science/urban studies from the University of Pittsburgh and a Master of City and Regional Planning from Harvard University.

**Randall Fiertz**  
Director, Office of Airport Compliance and  
Management Analysis  
Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, DC 20591  
Phone: (202) 267-3085  
randall.fiertz@faa.gov

Randy is the Director of Compliance and Management Analysis for FAA's Airport Division. In this capacity since 2008, he ensures that airports receiving federal funding are in compliance with their grant obligations. These include regulations on the use of airport revenue, airport rates and changes as well as ensuring compatible land-use around airports. He is also responsible for the FAA's airport privatization program.

Other previous Federal transportation positions include FAA representative for South Asia in New Delhi, India (2006-2008); Director of Revenue, Transportation Security Administration (2001-2006); and Acting Director, FAA Office of Cost and Performance Management (1998-2001).

Randy's private sector experience includes eight years with the financial consulting firm Coopers & Lybrand in Zurich, Switzerland and Washington DC. At Coopers & Lybrand, he was a manager in the firm's financial advisory services practice for which he advised corporate and government entities on a wide range of corporate finance activities. He was also an international banker for five years with American Express Bank with clients throughout Europe, the Middle East, and the Asia-Pacific regions. In addition, he completed several consulting assignments for the World Bank.

# Workshop Faculty

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**Allison I. Fultz**

Partner  
Kaplan Kirsch & Rockwell LLP  
1001 Connecticut Ave., NW  
Suite 800  
Washington, DC 20036  
Phone: (202) 955-5600  
afultz@kaplankirsch.com

Allison I. Fultz provides strategic advice to her clients in negotiating complex transactions and pursuing a wide range of regulatory matters relating to transportation and infrastructure projects. She represents private entities, state and municipal governments and regional bodies before numerous federal agencies, state and federal courts in connection with federal regulation and procurement requirements, the acquisition and abandonment of railroad rights-of-way, rails-to-trails proposals, environmental reporting and agency rulemaking. Ms. Fultz's expertise includes negotiations with freight railroads for the acquisition and shared use of rail corridors and the drafting and negotiation of contracts for project management, construction, operations and maintenance services.

Ms. Fultz advises clients on coordinated land use and multi-modal transportation planning and transit-oriented development, historic preservation issues, and construction-related matters including drafting and negotiating contracts for architectural and engineering consulting services, construction, demolition and materials management, and large-scale redevelopment. Ms. Fultz has extensive experience with federal procurement requirements for programs managed or funded by the Federal Aviation Administration, Federal Transit Administration, Federal Railroad Administration and Federal Highway Administration. She regularly counsels clients on compliance with other federal requirements including the Americans with Disabilities Act. Ms. Fultz is also a licensed architect and directed feasibility studies, master plans and building projects for institutional, government and educational clients from the project programming stage through construction in the United States and Canada.

**Marci A. Greenberger**

Senior Program Officer  
Airport Cooperative Research Program  
Transportation Research Board  
500 Fifth Street, NW  
Washington, DC 20001  
Phone: (202) 334-1371  
mgreenberger@nas.edu

Marci Greenberger is currently a Senior Program Officer with the Airport Cooperative Research Program of the Transportation Research Board. The ACRP seeks near term solutions on issues that broadly affect airports that aren't currently being researched. Marci is currently managing approximately 25 projects including the legal studies program.

Ms. Greenberger has been involved in airport management for 18 years and has held management positions with the Burbank-Glendale-Pasadena Airport Authority; South Bend Regional Airport; and the Rhode Island Airport Corporation overseeing the operations at T.F. Green Airport, a medium-hub airport and the State's 5 general aviation airports.

Ms. Greenberger holds a Master in Business Administration from California State University – Northridge and a Bachelor of Science degree in Aviation Management from the Ohio State University.

Ms. Greenberger volunteers as co-coordinator of the Alexandria (VA) CERT (Community Emergency Response Team) and is a member of the Alexandria Citizens Corps Council, an advisory board to the Alexandria City Council on educating citizens to be prepared in the event of a natural or man-made disaster.

# Workshop Faculty

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**Cathy Hampton**

Chief Legal Officer  
City of Atlanta  
City Hall Tower  
68 Mitchell Street, SW  
Suite 4100  
Atlanta, GA 30303-3520  
Phone: (404) 330-6469  
cathyhampton@atlantaga.gov

Cathy Hampton is the Chief Legal Officer for the City of Atlanta, where she leads an 84-member Department of Law. She provides legal advice to the Mayor and the Atlanta City Council. Cathy is responsible for all civil legal matters for the City and its 7,660 employees, including the world's busiest airport, Hartsfield-Jackson Atlanta International Airport.

Cathy previously served as Vice President, General Counsel and Secretary at publicly-traded RARE Hospitality International, Inc. ("RARE"), headquartered in Atlanta, which owned, operated and franchised 322 restaurants, including 291 LongHorn Steakhouse restaurants and 29 Capital Grille restaurants. Cathy led all aspects of RARE's legal affairs and oversaw the daily operation of RARE's Legal Department. Her responsibilities included corporate governance, securities, general corporate, intellectual property, compliance, real estate, marketing, employment and litigation matters for RARE and its 20,000 employees.

Prior to her tenure at RARE, Cathy was the Vice President and Assistant General Counsel for EarthLink, Inc. and General Counsel and Secretary for EarthLink's PeoplePC subsidiary. At EarthLink, Cathy led the transactional and intellectual property team that was responsible for EarthLink's commercial transactions, copyrights, trademarks and growing patent portfolio. She also drove the implementation of the company's Sarbanes-Oxley compliance program.

Cathy began her legal career as a corporate associate at the New York law firm of Shearman and Sterling. Next, she practiced marketing, advertising and general corporate law at the National Basketball Association in New York before moving to Atlanta to serve as Counsel for Turner Entertainment Group, Inc. While at Turner, Cathy negotiated and managed television production, licensing and talent transactions. She also registered, prosecuted and enforced 2,500 domestic and international trademarks for Turner Entertainment Networks, World Championship Wrestling and the Atlanta Hawks, Atlanta Braves and Atlanta Thrashers sports teams.

Cathy serves her community in leadership roles with the State Bar of Georgia, Atlanta Women's Foundation, Spelman LEADS, Atlanta Black/Jewish Coalition, Leadership Atlanta, Georgia Association of Black Women Attorneys, VOX Youth Communications, the Women's Resource Center to End Domestic Violence and the Planned Parenthood Federation of America, Inc. Cathy was also recently selected as a 2014 *Who's Who In Black Atlanta* honoree.

Cathy is a graduate of Spelman College and Harvard Law School. She also studied at Oxford University and the University of the West Indies. Cathy is a member of Delta Sigma Theta Sorority, Inc. and Cascade United Methodist Church. She mentors high school, college and law students as well as young lawyers across the country. A native of Magnolia, Mississippi, Cathy resides in East Atlanta.

**Stephen H. Kaplan**

Partner  
Kaplan Kirsch & Rockwell LLP  
1675 Broadway  
Suite 2300  
Denver, CO 80202  
Phone: (303) 825-7000  
skaplan@kaplankirsch.com

Throughout his professional career, Mr. Kaplan has participated in the negotiation of complicated public-private partnerships from several different perspectives: as a client, as counsel to a municipality, and as a representative of the United States government. Mr. Kaplan specifically focuses on public-private partnerships in the redevelopment of publicly-owned property, and the structuring of such redevelopment projects involving public financing for infrastructure. Mr. Kaplan is also actively working on major transit oriented development projects and with airports interested in airport-related commercial development, both on and off-airport.

Mr. Kaplan was the General Counsel of the United States Department of Transportation from 1993-1995, with responsibility for advising and representing the Department and its various agencies including, among others, the Federal Aviation Administration, the Federal Transit Administration and the Federal Highway Administration.

Mr. Kaplan also served for seven years as the City Attorney of Denver, Colorado. He was actively involved in negotiations which led to the development of Denver International Airport, the Colorado Convention Center and the governance structure and financing for Denver's Major League Baseball stadium.

# Workshop Faculty

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**Nancy Kessler**

Senior Attorney  
U.S. Department of Transportation  
Office of the Secretary  
OST/C-60, W94-320  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
Phone: (202) 366-9301  
nancy.kessler@dot.gov

Nancy Kessler serves as a senior attorney in the Office of General Counsel with the Office of the Secretary of Transportation, specializing in airport and airline economic matters.

She advises the General Counsel and the Secretary's Office on important and economically significant policy and regulatory initiatives affecting the aviation industry, including airport-airline rates and charges, airport privatization, and airport revenue diversion. She has extensive experience handling the Department's responsibility to resolve significant disputes regarding airport-airline fees. Nancy Kessler also is a principal advisor on Anti-Head Tax Act matters. Additionally, she plays a key role on issues pertaining to airport slots and congestion reduction measures.

Nancy Kessler has presented papers on aviation matters at conferences sponsored by the American Association of Airport Executives, the Airports Council International-NA, the American Bar Association, and the Federal Bar Association. She currently serves as Chair, Transportation & Transportation Security Law Section of the FBA.

Nancy Kessler has received numerous awards for excellence from the Transportation Secretary and from the General Counsel.

Nancy Kessler graduated magna cum laude from Mount Holyoke College and received her J.D. with honors from George Washington Law School. She was an associate for a large law firm, served as a trial attorney at the Civil Aeronautics Board and transferred to the U.S. Department of Transportation after the sunset of the CAB.

**Peter J. Kirsch, Esq.**

Partner  
Kaplan Kirsch & Rockwell LLP  
1675 Broadway  
Suite 2300  
Denver, CO 80202  
Phone: (303) 825-7000  
pkirsch@kaplankirsch.com

Mr. Kirsch's practice emphasizes land use and environmental law with a focus on public-sector development and transportation infrastructure projects. He has represented clients ranging from municipalities and local governments to private industry and public interest groups in negotiations and litigation over land use entitlements, the environmental impacts of infrastructure projects and compliance with federal transportation law and regulations. Mr. Kirsch has litigated cases before administrative agencies, numerous state and federal trial and appellate courts and the U.S. Supreme Court.

For 25 years, he has been involved in most of the new commercial airport projects in the United States as well as dozens of airport expansions, redevelopment projects and development of airport collateral lands. Mr. Kirsch also frequently advises non-airport clients on compliance with federal environmental laws, with a particular focus on the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act and other federal statutes that affect projects requiring federal approvals.

**Marty Lenss, C.M.**

Executive Director  
Rochester International Airport  
7600 Helgerson Drive, SW  
Rochester, MN 55902  
Phone: (507) 282-2328  
mlenss@flyrst.com

Before being selected as the new Executive Director of RST, Mr. Lenss was the Airport Director for the Outagamie County Regional Airport in Appleton, Wisconsin. Prior to that Mr. Lenss was the Director of Operations and Public Safety for the Dane County Regional Airport in Madison, Wisconsin from 2001 through 2008 and Assistant Airport Manager for the Cheyenne Regional Airport, Cheyenne, Wyoming from 1995 to 2001.

Mr. Lenss is a 1993 graduate of the University of North Dakota, with a BBA in Airport Management and Business Management. Mr. Lenss is also a Certified Member (C.M.) of the American Association of Airport Executives (AAAE).

# Workshop Faculty

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**Rebecca MacPherson**

Of Counsel  
Jones Day  
501 Louisiana Avenue, NW  
Washington, DC 20001-2113  
Phone: (202) 879-4645  
rmacpherson@jonesday.com

Rebecca MacPherson advises clients in the transportation sector, with a particular focus on strategic and regulatory issues in the airline, aviation, and automotive sectors. She also advises clients on motor carrier and maritime matters. Rebecca provides regulatory advice to clients on matters related to the regulation of aircraft manufacturers, air carriers, commercial operators, repair stations and corporate aviation, including the impact of mergers and acquisitions on the continued validity of government issued certifications and approvals. Rebecca is widely sought for her expertise and recent agency perspective on diverse aviation matters including, regulation of unmanned aerial vehicles, restrictions on airspace over hostile areas, and the allocation of slots at slot-constrained airports.

Prior to joining Jones Day in 2013, Rebecca served as assistant chief counsel for international law, legislation, and regulations at the Federal Aviation Administration. She provided legal and policy guidance to the FAA on matters associated with the development of regulations governing all aspects of aviation, as well as the day-to-day implementation of all existing standards and regulations. Rebecca was responsible for developing novel solutions to industry problems within the confines of existing regulations. Her work on airline mergers and single operating certificates has become a standard in the airline industry. She also provided guidance on the development of NextGen equipage and operating requirements and on obstructions to air navigation. Rebecca played a crucial role in the development of agency policies at congested airports and was instrumental in developing the Bush Administration's open market initiative at U.S. slot-controlled airports. She routinely represented FAA interests to the White House, Congress, and other federal government agencies where she provided expertise on numerous high-profile initiatives like the impact of wind farm technology on the safety of the nation's airspace and the risk of lithium batteries on aircraft.

**F. Joseph McMackin III**

Member  
Bond, Shoeneck & King  
4001 Tamiami Trail North  
Suite 250  
Naples, FL 34103-3555  
Phone: (239) 659-3861  
jmcmackin@bsk.com

F. Joseph McMackin III is a Member of the law firm of Bond, Schoeneck and King P.L.L.C in Naples, Florida. He has practiced in Naples since 1972. Mr. McMackin concentrates his practice in business law, government law, labor and employment law and real estate, and has represented the City of Naples Airport Authority for 14 years. Mr. McMackin has served on the *Twentieth Judicial Circuit Grievance Committee*, as Secretary of the Collier County Bar Association, serves as a Director of a number of national charitable organizations; and, recently completed a term on the Twentieth Circuit Judicial Nominating Commission. From 1968 to 1970, he served in the United States Navy. He received his bachelor's degree from Wesleyan University and law degree from the University of Miami.

**W. Eric Pilsk**

Partner  
Kaplan Kirsch & Rockwell LLP  
1001 Connecticut Ave., NW  
Suite 800  
Washington, DC 20036  
Phone: (202) 955-5600  
epilsk@kaplankirsch.com

For over 20 years, Eric Pilsk has represented clients in disputes involving public entities, with a particular emphasis on litigating airport, transit, and land use issues. Mr. Pilsk has handled cases involving federal aviation laws and regulations, federal preemption, the ICC Termination Act, the National Trails System Act, NEPA, APA, Native American trust claims, and a wide range of state and federal constitutional, land use and other issues. Mr. Pilsk has acted as lead trial counsel in trials in state and federal courts and administrative agencies, including contested evidentiary hearings before the FAA in FAR Part 16 proceedings. His appellate experience includes drafting numerous briefs to state and federal Courts of Appeals and the U.S. Supreme Court, as well as arguing cases in federal Courts of Appeals. In addition to litigation, Mr. Pilsk counsels clients on a range of regulatory and pre-litigation issues, including FAA AIP grant compliance matters, airport expansion projects, and rail corridor access issues.

**John E. Putnam**

Partner  
Kaplan Kirsch & Rockwell LLP  
1675 Broadway  
Suite 2300  
Denver, CO 80202  
Phone: (303) 825-7000  
jputnam@kaplankirsch.com

Mr. Putnam counsels and litigates on behalf of public and private entities on the development and operation of infrastructure. Mr. Putnam has extensive experience providing clients with strategic advice on airport, electricity, surface transportation, water, and other infrastructure projects throughout the country. He counsels clients regarding a wide range of environmental, energy, and transportation issues, including public utilities laws, the National Environmental Policy Act, air quality, climate change, noise, transportation regulations, and natural resources.

**Kristen Rectenwald**

Senior Assistant City Attorney  
Hartsfield-Jackson Atlanta International Airport  
68 Mitchell Street, SW  
Suite 4100  
Atlanta, GA 30303-3560  
Phone: (404) 330-6986  
kristen.rectenwald@atlanta-airport.com

Ms. Rectenwald is a Senior Assistant City Attorney in the City of Atlanta's Department of Law, Aviation Practice Group, where she supports the legal needs of the Department of Aviation for Hartsfield-Jackson Atlanta International Airport. Ms. Rectenwald's practice is focused primarily on transactions associated with planning and development and capital improvement as well as representation of the City's Department of Aviation in litigation and litigation management. Ms. Rectenwald assists the Department of Aviation in complying with applicable Federal Aviation Administration Orders and Advisory Circulars, federal grant assurances and approvals related to land acquisition and development. Ms. Rectenwald has previously spoken on airport noise mitigation and is an active member of the National Association of Women in Construction. Ms. Rectenwald currently represents NAWIC as a member of the Associated Builders & Contractors, Inc.'s National Diversity Committee.

# Workshop Faculty

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**Daniel S. Reimer**  
Assistant General Counsel  
Department of Law  
Airport Office Building  
8500 Peña Boulevard  
Denver, CO 80249-6340  
Phone: (303) 342-2565  
dan.reimer@flydenver.com

Since April 2014, Dan Reimer has served as the Assistant General Counsel at Denver International Airport. Prior to that move, Mr. Reimer was a partner at Kaplan Kirsch & Rockwell LLP. For the last sixteen years, he has focused exclusively on airport legal issues, representing airports across the country in complex litigation, transactions and capital projects. Mr. Reimer has served as the chair of the AAEE Basics of Airport Law Workshop and Legal Update, editor of the Airport Law Desk Reference and KKR's Airport Law Alerts, author of multiple reports for the TRB Airport Cooperative Research Program, and frequent speaker on airport legal issues at industry conferences.

**Frank J. San Martin**  
Manager, Airports Financial Assistance Division  
Federal Aviation Administration  
800 Independence Avenue SW  
Room 921G  
Washington, DC 20591  
Phone: (202) 267-3831  
frank.sanmartin@faa.gov

Frank J. San Martin, a member of the Senior Executive Service (SES), was appointed Manager of the FAA Airports Financial Assistance Division in the Office of Airports in May 2008. That Division is responsible for the \$3.3 billion Airport Improvement Program (AIP), and the \$2.8 billion Passenger Facility Charge (PFC) program. Previously Frank served as Manager of the Airports Law Branch in the FAA Office of the Chief Counsel. There he oversaw legal review and litigation involving Airport Improvement Program (AIP) grants and assurances, Passenger Facility Charges (PFC), Disadvantaged Business Enterprises (DBE), contractor suspensions and debarments, and other legal issues arising from Federal airport development funding. He has been with the FAA for over 23 years. Frank received a Bachelor of Arts degree in History and Spanish from the College of the Holy Cross and a Juris Doctor degree from Boston College Law School.

**Eric T. Smith**  
Partner  
Kaplan Kirsch & Rockwell LLP  
1001 Connecticut Ave., NW  
Suite 800  
Washington, DC 20036  
Phone: (202) 955-5600  
esmith@kaplankirsch.com

Mr. Smith concentrates his practice in the aviation, employment and bankruptcy arenas. His aviation practice is broad, covering matters related to aviation manufacturers, airports, FBOs, air carriers, aircraft lessees & lessors, and on behalf of aircraft owners. Mr. Smith represents airport owners and operators of all sizes across the United States, providing legal and practical counsel on a full spectrum of issues that range from drafting large-scale operating agreements with main line and regional carriers, to acquiring federal assistance for obtaining/maintaining air carrier service, to securing federal grants for physical improvements. Mr. Smith, also experienced in labor & employment matters, assists airports in navigating the myriad of issues involving labor peace agreements, prevailing wage ordinances, and how those issues may impact concessions programs, including ACDBE programs.

**Jackie Sweatt-Essick**  
Environmental Program Manager  
Southern Region Airports Division  
Federal Aviation Administration  
PO Box 20636  
Atlanta, GA 30337  
Phone: (404) 305-6726  
jackie.sweatt-essick@faa.gov

Ms. Sweatt-Essick has over 25 years of experience in environmental, land use and transportation planning. She has extensive experience in preparing, reviewing and managing environmental studies for airport, transit and highway projects. Ms. Sweatt-Essick is responsible for assuring that Southern Region Airports Division complies with the National Environmental Policy Act (NEPA) and Federal Aviation Administration Orders and Advisory Circulars pertaining to planning and environmental review for major airport projects. She also manages the Southern Region's Land Relocation program.

Ms. Sweatt-Essick has also prepared comprehensive land use plans and zoning ordinances. She chaired a multi-disciplinary team of airport professionals that developed and published "Land Use Compatibility and Airports – A Guide for Effective Land Use Planning" that is part of FAA's National Guidance on Airport Land Use Compatibility. She is currently co-managing the update of FAA's Advisory Circular on Compatible Land Use Planning with the FAA headquarters office.

Ms. Sweatt-Essick has experience in coordination and negotiating with top officials of international, national, regional, state and local governments to promote the adoption of sound environmental protection and enhancement practices. She has provided technical assistance to foreign governmental agencies on environmental analysis for airport projects, airport- land use compatibility, and noise abatement planning.

**Charles W. Thompson, Jr.**  
Executive Director and General Counsel  
International Municipal Lawyers Association  
7910 Woodmont Avenue  
Suite 1440  
Bethesda, MD 20814  
Phone: (202) 742-1016  
cthompson@imla.org

Charles W. Thompson, Jr. is the Executive Director and General Counsel of the International Municipal Lawyers Association. Prior to being appointed to this position Mr. Thompson served as County Attorney for Montgomery County, Maryland from 1995 to 2006. For the previous 17 years, Mr. Thompson served as County Attorney for Carroll County, Maryland. Mr. Thompson received a bachelor's degree in history from Virginia Military Institute and earned his Juris Doctor from the University of Baltimore School of Law. In addition to serving as President of the Carroll County Bar Association, Mr. Thompson served as Chairman of the Board of the State and Local Government Law Section of the Maryland State Bar Association, and as Chairman and a member of the Committee on Ethics. Mr. Thompson also served on the Board of Directors and as President of the County Civil Attorneys group in the Maryland Association of Counties. Mr. Thompson is currently serving as an adjunct professor at the George Washington University teaching State and Local Government Law. Mr. Thompson is admitted to practice in the U.S. District Court for Maryland, the Fourth Circuit Court of Appeals, and the U.S. Supreme Court.

# Workshop Faculty

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**Catherine M. van Heuven**

Partner  
Kaplan Kirsch & Rockwell LLP  
1675 Broadway  
Suite 2300  
Denver, CO 80202  
Phone: (303) 825-7000  
cvanheuven@kaplankirsch.com

Ms. van Heuven's experience includes a broad range of environmental and land use issues, with a focus on transportation projects. She has extensive experience advising public sponsors on projects involving federal environmental reviews under the National Environmental Policy Act and related local land use regulations.

Ms. van Heuven has been responsible for assuring compliance with Federal Aviation Administration Orders and Advisory Circulars applicable to planning and environmental review for major airport projects. Ms. van Heuven has also provided strategic counsel to numerous airport sponsors on matters related to compliance with federal grant assurances, drafting minimum standards and rules and regulations, and securing FAA approvals related to land acquisition and development. Ms. van Heuven has litigated airport cases in multiple federal courts of appeal.

She also has extensive experience with projects implicating CERCLA, the Brownfields law, and state voluntary cleanup provisions. Ms. van Heuven has represented and advised clients before various federal agencies and courts, including rulemaking comments and litigation matters. In addition, Ms. van Heuven has lobbied members of Congress and senior officials at various federal agencies on behalf of clients with regard to land use and natural resources issues.

Ms. van Heuven also has broad public policy experience. She previously served as the senior legislative assistant on environment, energy, and natural resource issues for former U.S. Senator Paul Simon; as a policy analyst for the U.S. Senate Judiciary Committee Constitution Subcommittee; and as a special assistant in the U.S. Department of Justice Office of Legislative Affairs.

**Mary Kate Whalen**

Deputy Chief Counsel for General Law,  
Acting Deputy Chief Counsel for Regulations &  
Security Standards  
Department of Homeland Security  
Transportation Security Administration  
Office of Chief Counsel  
691 S. 12th Street-East Bldg.  
Arlington, VA 20598  
Phone: (571) 227-5814  
MaryKate.Whalen@tsa.dhs.gov

Mary Kate Whalen is the Deputy Chief Counsel for General Law at TSA. She joined TSA's Office of Chief Counsel in June 2012 following eight years at the Office of the General Counsel for the Department of Homeland Security. Mary Kate manages a staff of 35 legal professionals covering six primary subject matter areas: Information Law (Privacy/Social Media); Ethics and General Legal Services; Fiscal Law and Liability Management; Employment Law and Civil Rights; Labor Policy and Dispute Resolution; and Labor Relations.

At DHS, Mary Kate served as the Associate General Counsel for Regulatory Affairs where she was responsible for the management of the Department's vast regulatory program, providing legal counsel to DHS senior leadership on the wide variety of regulatory actions promulgated by the Department and its component agencies, including those related to aviation and transportation security, immigration services and enforcement, border protection, port security, and emergency rescue and response. She subsequently was selected by the General Counsel to serve as the first Managing Counsel for OGC overseeing the management and business practices of the 120 attorney office at DHS headquarters. Mary Kate also worked at the Drug Enforcement Administration where she served as Associate Chief Counsel for the Diversion and Regulatory Litigation Section. She started her legal career as an associate with Choate, Hall & Stewart in Boston.

Mary Kate obtained her J.D. from Suffolk University Law School, and holds a Master of Laws in International Law and National Security Law from Georgetown University Law School. She obtained her undergraduate degree from Colby College.







## Legal Research Digests published to date:

- [LRD No. 1](#)      Compilation of Airport Law Resources (February 2008)
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- [LRD No. 5](#)      Responsibility for Implementation and Enforcement of Airport Land-Use Zoning Restrictions (April 2009)
  
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- [LRD No. 15](#)     Compilation of State Airport Authorizing Legislation (August 2012)
- [LRD No. 16](#)     Procurement of Airport Development and Planning Contracts (September 2012)
- [LRD No. 17](#)     State and Federal Regulations That May Affect Initiatives to Reduce Airports' GHG Emissions (November 2012)
  
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