

Tweed-New Haven Airport Runway Litigation and CGS § 15-120j

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Issue

On July 9, 2019, the U.S. Second Circuit Court of Appeals issued a decision, [Tweed-New Haven Airport Auth. v. Tong](#), 930 F.3d 65 (2d Cir. 2019), impacting the state statute governing the length of Tweed–New Haven Regional Airport’s primary runway, Runway 2-20. This report summarizes the court’s decision and its effect on that statute ([CGS § 15-120j\(c\)](#)) and airport.

Summary

The Second Circuit decided that the Federal Aviation Act preempted [CGS § 15-120j\(c\)](#), thereby invalidating the statute. In response to the Second Circuit’s decision, Attorney General Tong filed an [appeal request](#) to the U.S. Supreme Court (see also this [press release](#)). This request was denied on March 23, 2020 (see [this order](#)). Consequently, the Second Circuit’s decision is the final result on the matter.

The invalidation of [CGS § 15-120j\(c\)](#) removes a constraint for modifying the airport’s runway in the future. The Second Circuit noted that the airport’s current Master Plan, which was approved in 2002 and represents a blueprint for the long-term development goals of the airport’s facilities, includes extending the runway. The Tweed–New Haven Airport Authority, which leases and operates the airport, is presently in the process of updating that Master Plan (see this [webpage](#)).

State Statute

In 2009, the state legislature passed [PA 09-7, September Special Session](#), which added [CGS § 15-120j\(c\)](#). This statute provides that Runway 2-20 “shall not exceed the existing paved runway length of five thousand six hundred linear feet,” effectively preventing its expansion. According to Attorney General Tong’s [appeal request](#), the basis for the enactment of [CGS § 15-120j\(c\)](#) was a 2009 memorandum of agreement (MOA) between the City of New Haven, Town of East Haven, and the Airport Authority that included a provision mirroring the statute’s limitation on the length of Runway 2-20. New Haven terminated the MOA on January 2, 2019. (For more information on the MOA and its termination, see OLR Report [2020-R-0238](#).)

Case Summary

The Airport Authority originally brought the case against the Connecticut Attorney General in his official capacity seeking a declaratory judgment. Upon reaching the Second Circuit, the case asked the court to address, among other things, whether [CGS § 15-120j\(c\)](#) interferes with the application of federal law.

The court’s decision turned on whether the statute impacted air safety, which, under the court’s prior case law, is a field exclusively controlled by the Federal Aviation Act. The court held that the statute does so directly, quoting from the litigants undisputed, stipulated facts that “[t]he length of a runway has a direct bearing on the weight load and passenger capacity that can be safely handled on any given flight.” The court added:

[b]ecause of the Statute, ‘[w]eight penalties are imposed on [existing] aircraft [at the Airport] for safety reasons.’ The Statute has limited the number of passengers that can safely occupy planes leaving the Airport by preventing planes from taking off at maximum capacity. For these safety reasons, carriers are forced to cut back on an ad-hoc basis the number of passengers that can safely be carried, the amount of baggage they can bring with them, and the total weight of luggage that can be loaded (internal citation omitted).

The Second Circuit added that:

[l]engthening the runway would allow for the safe use of larger aircraft, allow flights with no seating restrictions, allow more passengers on each airplane, and allow service to more destinations. It would also allow Tweed to attract more carriers and expand the availability of safe air service for its customers.

The Airport Authority also contended that the Airline Deregulation Act and the Airport and Airway Improvement Act preempted [CGS § 15-120j\(c\)](#). However, the court decided not to examine those claims since it concluded the Federal Aviation Act preempted the statute.

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