

# 38TH ANNUAL

# AIRPORT LAW WORKSHOP



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Session #

**38TH ANNUAL**

# **AIRPORT LAW WORKSHOP**



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The Lighter Side of  
Airport Law

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# THE SIMPSONS (2003, S.14 Ep. 14)







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**Could the Simpsons successfully sue for damage to their property?**

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Yes, but only if the defendant is the Springfield Airport Authority and the new flight patterns are significantly different than prior operations.

- Airport sponsors are liable for nuisance, trespass, and inverse condemnation claims
  - Not the airlines or FAA
- Extent of tort liability is heavily dependent on state law
- Inverse condemnation liability is dependent on selection of remedy
- Check statute of limitations and accrual of cause of action
  - Many claims arise when traffic patterns change
  - Desk Reference Chapter 20





# Airport (1970)







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**If the FAA asks, the airport manager may want to start thinking of another excuse for which of the following?**

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The airport failed to report that the runway was covered in snow, and the aircraft landed with significant snow accumulation on the pavement.

- Airport sponsors have an obligation to keep the airport open...
- Also an obligation to operate the airport safely under Grant Assurance 19, which includes reporting
- Exact procedures at certificated airports depends on snow and ice control plan, which is part of Airport Certification Manual and become regulatory upon FAA approval
- Potentially serious consequences for non-compliance





GEICO (2006)







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**The caveman wants to protest this advertisement by holding a rally of other cavemen at the entrance to the people-mover. Must the (public entity) sponsor allow him to do so?**

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No, because the rally would likely obstruct passenger movements through the airport.

- Airports are generally considered to be “non-public forus”
- Sponsors cannot *completely prohibit* First Amendment activities
- Sponsors *can* impose viewpoint-neutral, reasonable restrictions on the **time, place, and manner** of those activities
  - Permits
  - Congestion
  - Disturbances
- Desk Reference Chapter 11





# THE FLINTSTONES (1965)





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**Dino is clearly unhappy about traveling as cargo. If Fred decides to take him in the aircraft cabin as an emotional support animal, must the airport accommodate Dino in the terminal?**

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No, because Dino is not a service animal.



- As of December 2020, new DOT rule that only “service animals” must be recognized and accommodated by air carriers
- “Emotional support animals” are NOT service animals, though carriers *can* accommodate them
- “Service animals” can only be dogs or miniature horses (really)
- Easier for airports to also prohibit emotional service animals





# TOY STORY 2 (1999)





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**The Tri-County Airport Authority owns the Airport's baggage system and all airlines use it in common with each other. If the toys damage the system, who must pay for the repairs?**

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It depends on the Authority's agreement with the airlines.

- A sponsor's use and lease agreement with airlines will generally dictate maintenance and repair obligations for common-use systems
- Authority probably will need to pay in the first instance
- But can recover that cost through rates paid by airlines
- Potentially exceptions for airline negligence







BELL TELEPHONE (1981)





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**Your airport has decided to remove pay phones from the terminal and sell them on eBay as antiques (it owns them, not Bell). What legal advice should you give the airport manager?**

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Any revenue generated from the sale of the pay phones is likely airport revenue and must be used in accordance with federal law.

- FAA has a very broad definition of “airport revenue”
- “All fees, charges, rents, or other payments received by or accruing to the sponsor for...the sale, transfer, or disposition of...personal airport property not acquired with Federal assistance.”
- Grant Assurance 25
- Desk Reference Chapter 26





# FEAR AND LOATHING IN LAS VEGAS (1993)





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**There are a lot of potential problems, but which of these is NOT the airport sponsor's responsibility?**

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**Desert Airlines sold seats as a charter airline but does not hold the correct operating certificate from the FAA.**

- FAA has made a recent major crack down on “illegal charters”
- Sponsors should do due diligence on tenants, but cannot always know every itinerant operation that lands or takes off (e.g., from FBO)
- No obligation to police these operations for compliance with FAA regulations
- However, sponsor should cooperate and provide info if requested by FAA







# CADBURY DAIRY MILK (2008)





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**The sponsor would like to close and host a recurring "Runway Car Race" on the first Saturday of every month, after the last scheduled flight has arrived for the night. Is this permissible?**

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**No, because the airport cannot close and use its facilities for non-aeronautical purposes without FAA approval.**

- Grant Assurance 19(a)
- “Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary.”
- This plan also has safety and revenue use implications





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