

## EACP Committee

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**From:** Richelle Thomson <Richelle.Thomson@co.maui.hi.us>  
**Sent:** Tuesday, July 02, 2019 7:58 AM  
**To:** EACP Committee  
**Subject:** 2019-7-2 Response from Corporation Counsel  
**Attachments:** Acrobat.pdf

Aloha, Chair Sinenci,

Please find attached the response to your request for legal services dated June 28, 2019.

Thank you,

Richelle

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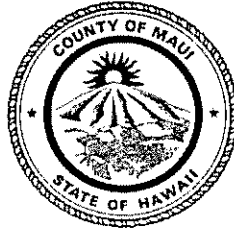
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July 2, 2019

TO: Shane Sinenci, Chair  
Environmental, Agricultural, and Cultural Preservation Committee

FROM: Richelle M. Thomson, Deputy Corporation Counsel 

RE: VISITOR IMPACTS TO COUNTY ENVIRONMENTAL AND  
INFRASTRUCTURAL RESOURCES (EACP-6)

This memo responds to your request dated June 28, 2019, related to the following questions:

1. The agency that covers the approval process for additional airlift capacity, and whether the agency gets community input.

Short answer: The Federal Aviation Administration (FAA) is the primary governing agency overseeing airport capacity expansions. The State of Hawaii, Airports Division, is the statewide authority that would initiate master planning, which would be the first step in increasing an airport's capacity. There are opportunities for public involvement in the planning and environmental review process, discussed in more detail below.

2. Whether any ticket revenue for parking violations goes to the County.

Short answer: No.

3. The legality of placing boots on vehicles parked on private property.

Short answer: Placing of boots is not legal on public or private property.

**1. The agency that covers the approval process for additional airlift capacity, and whether the agency gets community input.**

There are two primary strategies for addressing airport capacity. One is managing demand, and the second is adding capacity. “Airports and the Federal Aviation Administration (FAA) currently have two strategies to manage demand: 1) caps on flights and 2) congestion pricing,” writes Megan Ryerson. “The FAA has sole authority to cap the number of flights at an airport. FAA policy, however, does not support caps as a long-term solution, stating that caps are not in the public interest and should be imposed to alleviate air traffic delays only after other alternatives have been tried.”<sup>1</sup>

Expansion of physical capacity, such as by adding runways, begins with long-range planning initiated by the local airport authority, which in Hawaii is the State Department of Transportation, Airports Division. This is followed by preparation of an Environmental Impact Statement (EIS), which for any major expansion is required under the National Environmental Policy Act (NEPA) and the Hawaii Environmental Impact Statement, Chapter 343, HRS. An EIS must provide a detailed description of the proposed project along with its impacts, as well as other alternatives including a “no build” or “no action” alternative. The environmental assessment process involves agency and stakeholder consultation, and requires public notice and comment.

Section 343-5(h), HRS, states:

Whenever an action is subject to both the National Environmental Policy Act of 1969 (Public Law 91-190) and the requirements of [Chapter 343, HRS], the [Office of Environmental Quality Control] and agencies shall cooperate with federal agencies to the fullest extent possible to reduce duplication between federal and state requirements. Such cooperation, to the fullest extent possible, shall include joint environmental impact statements with concurrent public review and processing at both levels of government. Where federal law has environmental impact statement requirements in addition to but not in conflict with [Chapter 343, HRS], the office and agencies shall cooperate in fulfilling these requirements so that one document shall comply with all applicable laws.

The “Record of Decision for the Proposed Master Plan Improvements at Kahului Airport, Kahului, Maui, Hawaii, August 26, 1998,” by the U.S. Department of Transportation, Federal Aviation Administration, Western-Pacific Region, provides detailed information and background, including a discussion on

litigation brought by members of the public and environmental groups. It is available at:

[https://www.faa.gov/airports/environmental/records\\_decision/media/rod\\_mai.pdf](https://www.faa.gov/airports/environmental/records_decision/media/rod_mai.pdf)

Further information related to demand and public involvement may be found specifically in Volume IV (forecasted aviation demand) and Volume V (public comments/responses) to the 1993 Master Plan EIS, [http://oeqc2.doh.hawaii.gov/EA\\_EIS\\_Library/1997-09-DD-MA-FEIS-Kahului-Airport-Improvements-Vol-3-of-5.pdf](http://oeqc2.doh.hawaii.gov/EA_EIS_Library/1997-09-DD-MA-FEIS-Kahului-Airport-Improvements-Vol-3-of-5.pdf)

## **2. Whether any ticket revenue for parking violations goes to the County.**

The County does not receive traffic violation revenue. Pursuant to Section 291C-171, Hawaii Revised Statutes, all fines related to violation of the state traffic laws and all assessments related to the commission of traffic infractions shall be paid to the director of finance of the State.

## **3. The legality of placing boots on vehicles parked on private property.**

Section 291C-115, Hawaii Revised Statutes, prohibits “wheel boots,” as follows:

Wheel boots prohibited. (a) It shall be unlawful for a person or entity, including any county police department, to apply or cause to be applied, a wheel boot to a motor vehicle located on any public or private street, roadway, or highway, as applicable, or on any public or private property, as applicable.

(b) For purposes of this section, "wheel boot" includes a tire lock, Denver boot, wheel clamp, or wheel immobilizer.

(c) Any person, entity, or police department violating this section shall be fined \$100 for each application of a wheel boot.

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<sup>1</sup> Reyerson, Megan, and Woodburn, Amber. (2014). “Manage Flight Demand or Build Airport Capacity?” <https://www.accessmagazine.org/spring-2016/manage-flight-demand-or-build-airport-capacity/> Megan S. Ryerson and Amber Woodburn. 2014. “Build Airport Capacity or Manage Flight Demand: How Regional Planners Can Lead American Aviation into a New Frontier of Demand Management,” *Journal of the American Planning Association*, 80(2): 138–152. <https://www.tandfonline.com/doi/full/10.1080/01944363.2014.961949#.VteCCPkrJD8>