

REPORT OF
REPUBLIC AIRPORT COMMISSION

PAYMENTS IN LIEU OF TAXES
ON AVIATION PROPERTIES

PREPARED BY:

JOHN VAN SCHOOR
CHAIRMAN

January 16, 1986

TABLE OF CONTENTS

i.	Members of the Commission	
ii.	Distribution of the Report	
iii.	Others who shall receive the report	
I.	INTRODUCTION	Page 1
II.	CONSIDERATIONS	Page 4
III.	FINDINGS	Page 11
IV.	SUMMARY	Page 13
V.	MINORITY REPORT	Page 14

Others who shall receive the report are:

Local Government And Agencies:

Anthony Noto, Supervisor, Town of Babylon
John J. O'Neil, Supervisor, Town of Huntington
Joseph Colby, Supervisor, Town of Oyster Bay
Willis B. Carman, Jr., Mayor, Village of Farmingdale
Peter F. Cohalan, Executive, Suffolk County
Francis T. Purcell, Executive, Nassau County
William Fanning, Farmingdale School District

Senate:

Owen H. Johnson
James J. Lack
Ralph J. Marino

Assembly:

John C. Cochrane
John J. Flanagan
Antonia Rettaliata
Patrick Halpin
Philip B. Healey
Lewis J. Yevoli

New York State Executive Branch:

Mario Cuomo, Governor
(To be forwarded by DOT Commissioner Franklin E. White)

Members Of Congress:

William Carney
Thomas J. Downey
Norman F. Lent
Robert J. Mrazek

Introduction

Basis of Report

This report has been prepared for the legislature of New York State and the Commissioner of Transportation as directed by Chapter 370 of the Laws of 1982, embodied in Section 402 of the Transportation Law.

History

Republic Airport was a privately owned Airport until 1969 when it was acquired by the State of New York. The Metropolitan Transportation Authority (MTA) operated the Airport from 1969 until April of 1983 when the DOT assumed full responsibility for its operation having had jurisdiction over the Airport transferred to it on June 21, 1982.

Prior to 1969 the Airport was part of the tax base of the Town of Babylon and the Farmingdale School District. New York State did make certain payments to the School District over a period of seven years which, to a limited extent compensated for the loss of the tax base. Additional steps to improve the tax base were taken by the Republic Airport Commission in 1983 when it adopted a payments in lieu of taxes program for non-aviation properties in accordance with the provisions of Section 400 of the Transportation Law. This program has already been implemented for non aviation businesses located at the Airport and will be fully implemented as leases expire or are renegotiated.

Airport Development

Development of Airport properties are subject to FAA approval because most airports, including Republic, have received Federal grants for most major airport improvements since 1969. The land presently available for development includes several sites which are suitable for non-aviation purposes and would directly contribute to the local tax base. The Airport also has a certain amount of land that is suitable and may be required for future aviation needs. A master plan now in progress will evaluate and make recommendations on the use of such land.

Legislative Intent

The 1982 legislation directed the Republic Airport Commission to establish a payments in lieu of taxes program on non-aviation properties and asked the Commission to study and make a report on the appropriateness of payments in lieu of taxes (P.I.L.O.T.s) on aviation properties. The Commission has done that without prejudice and this report contains those recommendations believed appropriate for Republic Airport.

Considerations

In order to evaluate this matter from many points of view, a series of questions were developed to stimulate thought and whose answers provided both objective and subjective information on a given point. These questions and a synopsis of their answers are given in the body of this report.

Hearings/Meetings

In the development of the position taken by the Republic Airport Commission on P.I.L.O.T.'s - Aviation Properties, two public hearings were held. The first was held at the beginning of this process when all points of view from the various elements of public interest were solicited and received. The second public hearing was held after the Commission developed a preliminary position. This preliminary position was published in meeting notices and, again, inputs were requested from the public.

In addition to the public hearings, the Republic Airport Commission holds two meetings per month at which time the public was able to listen to deliberations on this subject and to comment.

Minority Views

The issue of P.I.L.O.T.'s - Aviation was divided into four questions that broadly segregated the activities that either exist or can be foreseen to exist at Republic Airport. There was a clear cut majority on three of these issues with a difference of opinion expressed on a fourth. A minority statement is included in this report which expresses opinions respected by all members of the Commission.

Considerations

The following questions were developed to assist in evaluating this issue from both a legal and equity point of view. These questions are reproduced here and an abbreviated synopsis of the answers is provided.

Legal Considerations

1. Do aviation properties operated by a private enterprise perform a public function and can their properties be "considered" for public use?

The evaluation of this point centered around fixed base operators (FBO's). It was determined that these businesses do provide a "quasi-public" service in that they are required to serve the public without discrimination, to provide certain public facilities including pilot and passenger lounges, rest rooms, etc., as mandated by their lease agreement. They are required to have qualified personnel available on a 24-hour a day basis.

Corporate hangars were evaluated to the extent that they do not have to provide the same services as an FBO, however, they are recognized as essential parts of an airport that serve the economic well being of the area surrounding the Airport.

2. How have other States and municipalities dealt with taxation on Aviation Properties?

There is no uniformity or consistency in how this is handled. Seventeen different political entities were looked at but that review only provided information as to the wide range of approaches that do exist. Generally, public areas are tax exempt with other facilities sometimes taxed depending on the service performed or the ownership of the property.

This question led the Commission to evaluate the specific appropriateness of P.I.L.O.T.s at Republic Airport.

3. Is there anything in New York State Law that provides a solid definition of a public use facility?

In New York State the term "public use" has different meanings depending on the statute in which it appears. The courts have held that property held by a municipality for public use is tax exempt.

Other court decisions dealing with "commercial" enterprise within a public facility have not provided a clear cut position. In Town of Harrison vs. County of Westchester the court held corporate hangars that were not available to the public were not public use facilities within the meaning of Section 406 (Real Property Tax Law). In Courtesy Sandwich Shops vs. Port of New York Authority the court held that "facilitating the flow of commerce" is a public purpose and

permitted the Port Authority to deal with condemnation proceedings accordingly.

Another consideration in this question as well as all others was the legislatively defined responsibility to promote the economic development of the area around Republic Airport and well being of the State as a whole.

Equity Questions

1. What was the amount of change in tax base (assessed valuation) in 1969 as a result of the State (MTA) acquisition of Republic Airport?
 - The best estimate of this change is \$1,484,000.
2. What financial consideration was provided to the Farmingdale School District and the Town of Babylon as a result of the New York State acquisition?
 - The Farmingdale School District received \$1,036,000 over a period of seven years.
 - New York State absorbed deficits at Republic Airport from 1969 to 1982 totaling \$5,853,000 which would have had to have been absorbed by a locality if New York State did not acquire the facility.
 - A final consideration under this heading was the fact that a major business and source of economic health for the area (Fairchild Republic Company) was unable to continue operating Republic Airport and failure of New York State to continue its operation would probably have resulted in the loss of this business to another State.

3. What special district taxes (services: fire, water, sewage, etc.) were paid by the MTA and what is being paid or proposed to be paid by New York State?

- The MTA paid no special district taxes.
- New York State (DOT) is paying. In addition, all users at the Airport (both aviation and non-aviation) are required to pay now or will be when leases expire or are renegotiated.

4. How has the tax base been restored through the P.I.L.O.T. non-aviation program instituted by the Republic Airport Commission?

- When the Airport went off the tax rolls it had an assessed valuation of approximately \$1,484,000 of which \$1,000,000 represented runways, taxiways and other public use areas. Of the remaining \$474,000, approximately \$180,000 of assessed valuation, or nearly 40% has been restored through P.I.L.O.T. non-aviation.

5. How much additional tax base can reasonably be restored through P.I.L.O.T. non-aviation in the near future (i.e. the next five years)?

- Present estimates indicate that office and hotel-type facilities, contemplated in previous plans, could add \$1,400,000 of assessed valuation to the tax roll.

6. To what extent are aviation businesses at the Airport presently contributing to local school district and town income through other forms of taxation?

- To the extent that schools and local governments are funded by State and Federal grants, the contribution by Airport businesses comprises State sales and fuel taxes and Federal gasoline taxes. In addition, the employment provided by the Airport can be considered as a source of income and other taxes realized due to the existence of the Airport.

7. To what extent are aviation businesses paying State and Federal taxes, fees and other assessments that do not apply to off-airport businesses?

- Aviation businesses do pay Federal taxes that are exclusive to aviation businesses which at Republic Airport would approximate \$300,000.
- Although there is no direct payment to a locality, a point brought out was the capital investment of New York State amounting to \$35,000,000 which would cost any locality owning the facility approximately \$2.86 million annually to service that debt.

8. What would an Aviation-P.I.L.O.T.s program do to aviation businesses in terms of financial health and would such cost be passed on to the general public?

- Aviation businesses would pass on the additional costs to the user. A secondary effect might result in a non-

competitive position with respect to other airports thus adversely effecting the financial positions of both the businesses and the Airport.

9. What amount of tax base would actually be available if all aviation businesses at Republic Airport were added to the tax rolls through an Aviation P.I.L.O.T.s program? This would recognize that public use areas (runways, taxiways, terminal building, terminal parking) are public use and not subject to Aviation P.I.L.O.T.s.

- It is estimated that the present assessed valuation would be approximately \$190,000 which would result in P.I.L.O.T. payment of approximately \$123,000.

10. If an Aviation-P.I.L.O.T.s program would adversely affect the financial health of aviation businesses at the Airport, should such payments be established by a reduction in rental fees collected by New York State?

- The Republic Airport Commission recognizes its responsibility to the community in which the Airport resides but but also recognizes its responsibility to all the people of New York State who have invested \$35,000,000 in the Airport and who have lived with operating deficits approximating \$600,000 annually for 1969 to 1982.
- Under Commission and DOT leadership, the operating deficit has been cut in half in each succeeding year and we anticipate a deficit of roughly \$100,000 for the current fiscal year. Further reductions in the deficit

will require a financially healthy Airport that both services the aviation needs of the community and fully utilizes the land that is appropriate for non-aviation development.

- Accordingly, the Commission does not feel the State should absorb such costs.

11. What tax base was lost by locating the New York State Police at Republic? (A similar amount would have been removed from the tax rolls if New York State had acquired privately owned land.)

- It is estimated that the State Police facility, if taxable, would be assessed at \$100,000. However, such a State owned building would not be subject to local taxes whether located on or off Airport. This facility will pay its fair share of special district assessments.

12. What financial benefit can be ascribed to the region because of the presence of Republic Airport?

- While this evaluation did not attempt to quantify the economic benefit of the Airport to the region it serves, it is clear that not only does Fairchild Republic Company exist because of the presence of the Airport but that many of the businesses are located in the area because of Republic Airport. Thus, it can be concluded that the Airport is a positive economic benefit to the area and to some extent, a certain tax base exists because of the Airport.

Findings

As previously mentioned, the determinations to be made by the Commission were divided into four specific questions which were voted on individually. The questions are paraphrased below with the results of the Commission's vote. In addition, copies of the resolutions appear as exhibits to this report.

In reviewing the information the Commission considered during its evaluation, two significant points were made in Commission deliberations.

First, the majority of the Commissioners agreed that the actions of 1969 which affected the tax base of the Town of Babylon and the Farmingdale School District were no longer a primary consideration. The Commission's primary concern is to do what is now fair and equitable to all interests including the businesses/aviation interests and the public in general.

The second consideration was the re-statement and recognition of Section 400 (I) of the Transportation Law which defined the public purpose of the Department of Transportation with respect to Republic Airport to be to meet the present and future State needs with respect to the provision of adequate, safe and efficient air transportation facilities and services to the public and to promote the economic development and well being of the State.

Based on all of the foregoing, the following questions were put to the Commissioners with results as indicated:

- A) Public use areas, including runways, taxiways, terminal and ramp, should not be subject to aviation payments in lieu of taxes.
- B) All aviation (as well as non-aviation) users shall pay improvement district taxes and charges, including fire, water and sewer.*
- C) FBO's (fixed base operators), which are quasi-public utilities, open to the public and perform a public function, should not be subject to payments in lieu of taxes.
- D) Single purpose shops, including avionics and engine repair shops, corporate hangars, etc., should not be subject to payments in lieu of taxes.

*Since State property is not exempt from these assessments and charges, which represent payment for services rendered, no additional legislation is required to enable the Department of Transportation to provide for such payments.

Summary

The Republic Airport Commission is recommending to the State Legislature and to the Commissioner of Transportation that no payments in lieu of taxes be adopted for aviation use properties. In coming to this recommendation it has recognized the needs of the public in general and feels that continued economic benefits will derive to all concerned through its P.I.L.O.T.'s non-aviation program now in effect.

The judgements that went into this report and the recommendations are a reflection of the economic history of the Airport and a projection of what the future holds for Republic Airport and the surrounding region that it serves.

Minority Report on the Appropriateness of P.I.L.O.T.'s for
Corporate Hangars and Specialty Shops

As reflected by the votes appearing earlier in this report, the issue which resulted in differing opinions was the appropriateness of P.I.L.O.T.'s being applied to corporate hangars and specialty shops and other business enterprises that may locate at the Airport at some future time.

The minority feels that these business enterprises do represent profit making enterprises that do not have the same responsibility to provide a broad range of "public" services that are required of a fixed base operator.

It was also noted that such businesses should pay their fair share of the tax burden recognizing that taxpayers in the Town of Babylon and the Farmingdale School District are heavily taxed and are in need of relief.

The fundamental premise that the Airport is a significant contributor to the economic health of the surrounding areas has been brought into question as well as any benefit that might accrue to the average taxpayer by allowing such businesses to operate in a tax-free environment.

In summary, the minority feels such private businesses located on airport property do not perform a "public" purpose and that their contribution to the economic well being of the area has not been established.

RESOLUTION 85-11 A
RAC MEETING 01/16/86

REPUBLIC AIRPORT COMMISSION

RESOLUTION RECOMMENDING:

AVIATION PAYMENT-IN-LIEU-OF-TAXES POLICY BE APPROVED

WHEREAS, Article 15 of the Transportation Law was amended to require the Republic Airport Commission to ". . . conduct a study on payments-in-lieu-of-taxes and improvement district taxes and charges with respect to aviation facilities which locate at Republic Airport after the effective date of this subdivision and existing aviation facilities whose leases are renewed after the effective date of this subdivision", and

WHEREAS, Article 15 of the Transportation law was also amended to require the Republic Airport Commission to ". . . conduct public hearings as part of such study and report its findings and recommendations to the Commissioner and the Legislature . . . ", and

WHEREAS, the Republic Airport Commission held a public hearing for the purpose of fact-finding on March 21, 1985, and

WHEREAS, the Republic Airport Commission developed an agreed upon list of 15 legal and equity questions and received answers to same, and

WHEREAS, the Republic Airport Commission held a second public hearing on December 5, 1985, during which it received responses to its preliminary position with regard to public areas, FBO's, single use facilities and improvement district taxes,

NOW BE IT, THEREFORE, RESOLVED that the Republic Airport Commission recommends, in a report to the Commissioner of Transportation and the New York State legislature,

- that no payments in lieu of taxes should be made for public areas such as runways, taxiways, ramp and terminal, areas.

RESOLUTION DISPOSITION:

 X CARRIED
 FAILED TO CARRY
 TABLED

RESOLUTION VOTE:

 8 FOR
 0 AGAINST
 2 ABSTAIN
 0 ABSENT
10 TOTAL

REPUBLIC AIRPORT COMMISSION

RESOLUTION RECOMMENDING:

AVIATION PAYMENT-IN-LIEU-OF-TAXES POLICY BE APPROVED

WHEREAS, Article 15 of the Transportation Law was amended to require the Republic Airport Commission to "... conduct a study on payments-in-lieu-of-taxes and improvement district taxes and charges with respect to aviation facilities which locate at Republic Airport after the effective date of this subdivision and existing aviation facilities whose leases are renewed after the effective date of this subdivision", and

WHEREAS, Article 15 of the Transportation law was also amended to require the Republic Airport Commission to "... conduct public hearings as part of such study and report its findings and recommendations to the Commissioner and the Legislature . . . ", and

WHEREAS, the Republic Airport Commission held a public hearing for the purpose of fact-finding on March 21, 1985, and

WHEREAS, the Republic Airport Commission developed an agreed upon list of 15 legal and equity questions and received answers to same, and

WHEREAS, the Republic Airport Commission held a second public hearing on December 5, 1985, during which it received responses to its preliminary position with regard to public areas, FBO's, single use facilities and improvement district taxes,

NOW BE IT, THEREFORE, RESOLVED that the Republic Airport Commission recommends, in a report to the Commissioner of Transportation and the New York State Legislature,

- that no payments-in-lieu-of-taxes should be made by fixed base operators.

RESOLUTION DISPOSITION:

 X CARRIED
 FAILED TO CARRY
 TABLED

RESOLUTION VOTE:

 8 FOR
 1 AGAINST
 1 ABSTAIN
 0 ABSENT
 10 TOTAL

HDJ/ 01/16/86

REPUBLIC AIRPORT COMMISSION

RESOLUTION RECOMMENDING:

AVIATION PAYMENT-IN-LIEU-OF-TAXES POLICY BE APPROVED

WHEREAS, Article 15 of the Transportation Law was amended to require the Republic Airport Commission to ". . . conduct a study on payments-in-lieu-of-taxes and improvement district taxes and charges with respect to aviation facilities which locate at Republic Airport after the effective date of this subdivision and existing aviation facilities whose leases are renewed after the effective date of this subdivision", and

WHEREAS, Article 15 of the Transportation law was also amended to require the Republic Airport Commission to ". . . conduct public hearings as part of such study and report its findings and recommendations to the Commissioner and the Legislature . . . ", and

WHEREAS, the Republic Airport Commission held a public hearing for the purpose of fact-finding on March 21, 1985, and

WHEREAS, the Republic Airport Commission developed an agreed upon list of 15 legal and equity questions and received answers to same, and

WHEREAS, the Republic Airport Commission held a second public hearing on December 5, 1985, during which it received responses to its preliminary position with regard to public areas, FBO's, single use facilities and improvement district taxes,

NOW BE IT, THEREFORE, RESOLVED that the Republic Airport Commission recommends, in a report to the Commissioner of Transportation and the New York State Legislature,

- That all aviation users should pay improvement district taxes (fire, water, sewer) based on their useage of such items.

RESOLUTION DISPOSITION:

 X CARRIED
 FAILED TO CARRY
 TABLED

RESOLUTION VOTE:

 8 FOR
 0 AGAINST
 2 ABSTAIN
 0 ABSENT
 10 TOTAL

REPUBLIC AIRPORT COMMISSION

RESOLUTION RECOMMENDING:

AVIATION PAYMENT-IN-LIEU-OF-TAXES POLICY BE APPROVED

WHEREAS, Article 15 of the Transportation Law was amended to require the Republic Airport Commission to ". . . conduct a study on payments-in-lieu-of-taxes and improvement district taxes and charges with respect to aviation facilities which locate at Republic Airport after the effective date of this subdivision and existing aviation facilities whose leases are renewed after the effective date of this subdivision", and

WHEREAS, Article 15 of the Transportation law was also amended to require the Republic Airport Commission to ". . . conduct public hearings as part of such study and report its findings and recommendations to the Commissioner and the Legislature . . . ", and

WHEREAS, Article 15 directs Republic Airport "to meet present and future state needs with respect to the provision of adequate, safe and efficient air transportation facilities and services to the public, and to promote the economic development and well being of the State . . . "

WHEREAS, the Republic Airport Commission held a public hearing for the purpose of fact-finding on March 21, 1985, and

WHEREAS, the Republic Airport Commission developed an agreed upon list of 15 legal and equity questions and received answers to same, and

WHEREAS, the Republic Airport Commission held a second public hearing on December 5, 1985, during which it received responses to its preliminary position with regard to public areas, FBO's, single use facilities and improvement district taxes,

NOW BE IT, THEREFORE, RESOLVED that the Republic Airport Commission recommends, in a report to the Commissioner of Transportation and the New York State Legislature,

- that no payments-in-lieu-of-taxes should be made for single use facilities, such as engine repair shops and corporate hangars.

RESOLUTION DISPOSITION:

 X CARRIED
 FAILED TO CARRY
 TABLED

RESOLUTION VOTE:

 6 FOR
 3 AGAINST
 1 ABSTAIN
 0 ABSENT
 10 TOTAL

PILOTS - Non-Aviation Uses

WHEREAS, Chapter 370 of the State's Transportation Laws of 1982 requires that payments-in-lieu-of-taxes be required as part of any lease renewals or new leases at Republic Airport, and

WHEREAS, the Town of Babylon has objected to the way differences of opinion on payment amounts are reconciled, and

WHEREAS, the Town of Babylon's recommended procedure for reconciling differences is contrary to Chapter 370 of the Laws of 1982, and

WHEREAS, Chapter 370 sets forth the manner in which non-aviation uses and the amounts to be paid for payments-in-lieu-of-taxes are determined with respect to the roles of the local taxing jurisdictions, the Republic Airport Commission and the Commissioner of the New York State Department of Transportation, and

WHEREAS, the Commission and the Department of Transportation desire that PILOTS for non-aviation used properties on Republic Airport be equitable to both the local taxing jurisdiction and the State,

NOW THEREFORE BE IT RESOLVED that the Republic Airport Commission recommends to the Commissioner of Transportation that (1) PILOTS for non-aviation uses be included for any lease renewals or new leases based on the March 24, 1983 position paper and, (2) Legislative leaders that sponsored Chapter 370 of the Laws of 1982 be advised of the Town of Babylon's position regarding the PILOTS program.

Payments-in-lieu-of-taxes
Real Property Devoted to Non-aviation
Purposes at Republic Airport

I. Statutory Authority - Chapter 370 of the Laws of 1982
- Section 400(i)

In connection with any improvements on real property or any new leases or renewal of leases for real property made after the Department assumes jurisdiction over an air transportation facility, whether owned by the State or others, that are devoted to non-aviation purposes in whole or substantial portion thereof, the Commissioner shall enter into agreements to pay, or make provisions for the payment of, annual sums in lieu of taxes to any municipality or political subdivision of the State in which such improvements are located. Such non-aviation purposes shall include, but not be limited to, motel, hotel, restaurant transportation services other than aircraft, manufacturers whose products are not used exclusively at the airport, general office space and such other buildings and improvements as determined by the Commissioner to be not exclusively for aviation purposes. In regard to such non-aviation and substantial portion related determinations and any proration of use or purpose for determination of in lieu of tax payments, such determinations shall be in accordance with the recommendations made by the Republic Airport Commission and the affected municipalities or political subdivision, respectively.

Notwithstanding the foregoing provisions of this subdivision if an agreement is made between the Republic Airport Commission and all municipalities or political subdivisions with respect to payments in lieu of taxes or the definition of "non-aviation purposes" such agreements shall be binding upon the Commissioner with respect to such subjects, provided, however, that if there is no such agreement among all the aforementioned parties, the Commissioner shall make such determinations based upon the recommendations of all the parties.

II. Proposed Policy

As much as practicable, payments in lieu of taxes (PILOTs) shall be determined in the same manner as taxes on private property and shall be based on the use of the property for non-aviation purposes.

The State shall make provision for PILOT payments in any new or renewal of leases by requiring the tenant to make the payment of the PILOT directly to the appropriate taxing district. In no event shall the State be obligated to make such payments directly.

March 24, 1983

III Definitions

- A. Improvement : Anything done on real property which would require a building permit from the municipality or political subdivision in which the improvement is located were it located off-airport Property.
- B. PILOT : Payment in lieu of tax
- C. Non-aviation use : Motel, hotel, restaurant, transportation services other than aircraft, manufacturers whose products are not used exclusively at the airport, general office space and such other buildings and improvements as determined by the Commissioner to be not exclusively for aviation purposes unless an agreement is made between the Republic Airport Commission and all municipalities or political subdivisions on the definition of non-aviation use, in which case it shall be binding on the Commissioner
- D. Tenant : Lessee of property and payor of PILOTs
- E. State : New York State Department of Transportation (DOT)
- F. Substantial Portion : 25% or more of a leasehold area used for non-aviation purposes

IV Procedure

If an agreement is made between the Republic Airport Commission and all municipalities or political subdivisions with respect to payments in lieu of taxes or the definition of "non-aviation purposes," such agreements shall be binding on the Commissioner.

Otherwise, the Commission and affected municipalities or political subdivisions must make recommendations to the Commissioner as to whether the improvement or real property is devoted to non-aviation purposes or any proration of use so that the Commissioner may make his determination in accordance with those recommendations. The proration of use shall be on the basis of the area of the property being used for non-aviation purposes in relation to the total leased area being used but only if the area being used for non-aviation purposes is 25% or more of the total leased area. If the Commissioner determines that the improvement or real property is devoted to non-aviation

March 24, 1983

purposes, the following procedures apply:

A. Tenant-owned Improvement

1. Tenant provides copy of plans for improvement to appropriate political subdivision with a statement as to the percentage of non-aviation use following completion of the improvement. For properties having valid leases, for which no PILOT has previously been required, and whose term has not expired, the percentage of non-aviation use as a result of the improvement shall be based on the square footage of the improvement itself, not the entire property being improved.
2. Prospective tenant advised of PILOT requirement and to talk with municipality or political subdivision in which improvement is to be located to determine approximate amount to be paid and method of determining amount to be paid (the assessed value of the property is determined by the Town of Babylon and used by all taxing districts. The Town collects taxes for itself, the County and the School District. The Town, the County and the School District set their own taxing rates. In addition, the Town and County can offer abatement programs to qualified candidates. Therefore, it behooves the prospective tenant to contact the Town.
3. Method will be identical to determining tax on taxable property; i.e., an assessment that is equitable to both the State and Town will be made by the Town to determine the value of the improvement, Town, County and School District tax rate per thousand of assessed value applied, and the amount of the PILOT determined (if PILOT is already being paid on property to which improvement is being made, then PILOT need only be revised to reflect improvement). In the event of an improvement being made to a property for which a valid lease exists whose terms have not expired and for which no PILOT has been required, the amount of the PILOT shall be based only on the value added by the improvement alone, not the entire property.
4. At the same time annually that other tax bills are sent out, Town sends bill for PILOT to tenant and tenant pays Town directly. Town immediately notifies tenant and DOT when PILOT bill is not paid.
5. If tenant and Town of Babylon do not agree on PILOT amount, the Commission and the Town shall attempt to reach agreement. If still no agreement is reached, the Commissioner shall determine the amounts based on the recommendations of all the parties.

March 24, 1983

B. New Lease or Lease Renewal for Tenant-owned Building

1. For new building, tenant provides copy of plans to appropriate political subdivision with a statement as to the percentage of non-aviation use following completion of construction.
2. Prospective tenant advised of PILOT requirement and to talk with the Town of Babylon to determine approximate amount to be paid and method of determining amount to be paid (the assessed value of the property is determined by the Town and used by all taxing districts. The Town collects taxes for itself, the County and the School District. The Town, County and the School District set their own taxing rates. In addition, the Town and County can offer abatement programs to qualified candidates. Therefore, it behooves the prospective tenant to contact the Town).
3. Method will be identical to determining tax on taxable property; i.e., an assessment that is equitable to both the State and Town will be made by the Town to determine the value of the property, Town, County and School District tax rate per thousand of assessed value applied, and the amount of the PILOT determined.
4. At the same time annually that other tax bills are sent out, the Town sends bill for PILOT to tenant and tenant pays Town directly. Town immediately notifies tenant and DOT when PILOT bill is not paid.
5. If tenant and Town of Babylon do not agree on PILOT amount, the Commission and Town shall attempt to reach an agreement. If still no agreement is reached, the Commissioner shall determine the amount based on the recommendations of all the parties.

C. State-owned Property

1. Prospective tenant advised of PILOT requirement and to talk with Town of Babylon to determine approximate amount to be paid and method of determining amount to be paid.
2. Method of determining PILOT will be based on the amount of leased area used for non-aviation purposes. The value of the property or improvement will be determined by the Town in the same manner as the value of non-state owned property or improvements to the greatest extent practicable. The prorated share of the property or improvement that is used for non-aviation purposes is determined by computing the percentage of total floor area of the building that is devoted to non-aviation purposes. That percentage applied to the property's value yields the prorated share of the value to be used by the Town in computing the PILOT amount. Applying the Town's, County's and School District tax rate per thousand to the prorated property value yields the PILOT due. In the event of an improvement being made to a property for which a valid lease exists

March 24, 1983

whose term has not expired and for which no PILOT has been required, the amount of the PILOT shall be based only on the value added by the improvement alone, not the entire property.

3. At the same time annually that other tax bills are sent out, the Town sends bill for PILOT to tenant and tenant pays Town directly. Town immediately notifies DOT and tenant when PILOT bill is not paid.
4. If tenant and Town of Babylon do not agree on PILOT amount, the Commission and the Town shall attempt to reach agreement. If no agreement is reached, the Commissioner shall determine the amount based on the recommendations of all the parties.

V. Special Assessments

Those non-aviation uses of real property that require municipal services shall pay a share of the cost of providing such services, which share shall be included as part of the PILOT due for those uses.

VI. Default of PILOT Payments

In the event of non-payment of PILOTs, tenant is automatically in default of his lease with the State (In its lease with tenants, DOT will require them to pay PILOT). If such default cannot be remedied, the State shall attempt to re-let the premises. If the new lease is for non-aviation purposes, a new PILOT will be required in accordance with any new non-aviation uses.

To protect against PILOT defaults, DOT shall in its lease with the tenants require the following provisions:

For lease terms of up to one year, an amount equal to the pro-rata share of one year's PILOT shall be due and payable to the taxing jurisdiction immediately upon executing the lease.

For lease terms greater than one, but less than two years, the tenant shall at the time of executing the lease have the option of either depositing one full year's PILOT amount in an escrow account in the taxing jurisdiction's name or paying the entire PILOT due for the term of the lease.

For lease terms of two years or more, the tenant shall be required to deposit an amount equal to one full year's PILOT in an escrow account. The tenant shall also annually be required to deposit an additional amount into the escrow account to cover any increases in the next year's PILOT that will be due. The taxing jurisdiction shall so advise the tenant of any such annual escrow account adjustments that may be required.

March 24, 1983

VI. Default of PILOT Payments (Continued)

Interest earned from escrow deposits shall accrue to tenant. In the event of non-payment of a PILOT, the taxing jurisdiction shall immediately notify the tenant and DOT and, if after a reasonable period of time, payment has still not been made, the taxing jurisdiction shall secure the PILOT from the escrow account. Late payments shall be subject to a surcharge of 1½% per month on the unpaid portion of the PILOT.

March 24, 1983