

# **Bond Case Briefs**

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## **AIRPORT AUTHORITIES - CONNECTICUT**

### **Tweed-New Haven Airport Authority v. Tong**

**United States Court of Appeals, Second Circuit - July 9, 2019 - F.3d - 2019 WL 2932588**

Airport authority that operated city-owned airport brought action against Connecticut attorney general, seeking declaratory judgment that Connecticut statute limiting runway length was invalid.

The United States District Court concluded that authority lacked standing, and that Federal Aviation Act (FAAct) did not preempt Connecticut statute. Authority appealed.

The Court of Appeals held that:

- Authority demonstrated injury-in-fact arising out of Connecticut statute;
- Authority demonstrated that its alleged injury was caused by statute;
- Authority established that its injury would have been redressed by favorable decision, demonstrating Article III standing;
- Though authority was a political subdivision, it was not precluded from raising preemption challenge against state government under Supremacy Clause; and
- Connecticut statute was preempted by FAAct.

Airport authority that operated city-owned airport demonstrated that Connecticut statute forbidding it from extending length of runway created an injury-in-fact, as required to demonstrate Article III standing for challenge to statute under Supremacy Clause against Connecticut attorney general; while attorney general asserted that it had made no overt threat to enforce statute, airport was directly targeted by statute, and an actual enforcement action was not a prerequisite to challenging statute, since there was no indication in record that attorney general had disavowed enforcement.

Airport authority that operated city-owned airport sufficiently demonstrated Connecticut statute prohibiting it from extending runway caused its alleged injury, as required to demonstrate Article III standing to challenge statute under Supremacy Clause against Connecticut attorney general; while there were other uncertainties standing in way of completion of extended runway, including funding and permits, authority was not required to show that statute was sole or but-for cause of injury, since point of standing inquiry was not to figure out whether authority would likely achieve desired result, but instead to ensure that authority had an adequate personal stake in litigation.

Airport authority that operated city-owned airport demonstrated that a favorable judicial decision would have redressed its fear of enforcement of Connecticut statute prohibiting lengthening of runway, as required to demonstrate Article III standing to pursue declaratory judgment claim against Connecticut attorney general, asserting that statute violated Supremacy Clause; favorable decision would also likely have redressed authority's inability to move forward with its plans to extend runway.

Airport authority that operated city-owned airport, which was a subdivision of the state government of Connecticut, was not precluded on that basis from pursuing claim against Connecticut attorney general, alleging that Connecticut statute forbidding authority from lengthening runway was

preempted by the Federal Aviation Act (FAAct), and thus violated the Supremacy Clause; while states' authority under some provisions of the Constitution was unrestrained, for Supremacy Clause to have meant anything, it meant that state governments were not free to enforce within their boundaries laws preempted by federal law.

Connecticut statute prohibiting lengthening of runway at airport owned by city and operated by airport authority intruded into field of air safety and was thus preempted by Federal Aviation Act (FAAct); field of air safety was impliedly preempted by FAAct, Connecticut statute effectively limited number of passengers that could safely occupy planes leaving airport by preventing planes from taking off at maximum capacity and limited types of plans that could be used on runway, and Federal Aviation Administration (FAA) had direct and significant oversight over authority's plans to extend airport's runway pursuant to airport master plan previously approved by FAA.