

# The Challenges of Preemption and Fulfilling the Promise of AAM

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# Role of the Federal Government

Aircraft operation falls almost exclusively under federal jurisdiction. This makes perfect sense for a transportation system that crosses state boundaries.

Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection.

As Justice Robert Jackson noted in 1944, aviation operates under an intricate system of federal commands - from taxiing to landing.



## Federal Certification

Aircraft and personnel must meet strict federal standards.



## Operational Control

Every flight follows federal instructions and prescribed pathways.



## Federal Protection

Rights and privileges derive from federal, not state governments.



## eVTOL Regulation

New aircraft technologies remain under the same federal framework.





# City of Burbank v. Lockheed Air Terminal

This landmark 1973 Supreme Court case established crucial precedent in federal aviation preemption.



## The Dispute

Burbank attempted to restrict airport noise through local curfew ordinance on jet flights.



## Court Ruling

Supreme Court struck down the ordinance, finding it conflicted with federal authority.



## Lasting Impact

Established that noise regulation falls under FAA jurisdiction, not local control.



## Modern Application

AAM disputes between municipalities and federal aviation authorities.





# National Helicopter Corp. v. City of New York

**Proprietor exception:** This critical 1998 Second Circuit decision balanced federal preemption against legitimate local interests in regulating heliports.

1998

Year Decided

Second Circuit Court of Appeals ruling

47%

Operational Reduction

Court upheld New York's weekday flight cuts

100%

Weekend Ban

Complete prohibition on weekend tourist flights

This landmark case established that cities can regulate ground operations and environmental impacts despite federal airspace authority.



# Manhattan's Evolution of Urban Air Restrictions

After decades of concerns following the MetLife disaster, New York City implemented substantial changes to aerial operations.

1977-2010



Incident leads to decades of rooftop restrictions and public skepticism.



2016 Restrictions

Mayor de Blasio reduces tourist helicopter flights by 50% over Manhattan.

Designated Routes



Strict flight paths established over water rather than buildings.

- Sunday operations completely prohibited
- Heliports limited to eastern side of Manhattan only



eVTOL Planning

New regulations developing for next-generation aerial mobility systems.

# New York City Helicopter Restriction

§ 22-828 Heliport operations. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Covered helicopter. The term “covered helicopter” means a rotary-wing aircraft capable of vertical takeoff and landing. Such term does not include any helicopter with calculated noise levels, as indicated in appendix 10 or 11 to federal aviation administration advisory circular 36-1H, or any such successor document, that are not higher than the stage 3 noise limits for the maximum takeoff weight of such helicopter set by the federal aviation administration, pursuant to section H36.305 of appendix H or section J36.305 of appendix J to part 36 of title 14 of the code of federal regulations.

Heliport. The term “heliport” means a designated land area used for helicopter operations and any appurtenant areas, including fueling facilities, terminal buildings and maintenance and repair facilities that is on property owned or leased by the city. Such term shall not include any heliport located at an airport operated by the port authority of New York and New Jersey.

Non-essential flight. The term “non-essential flight” means any helicopter flight not conducted by or on behalf of (i) the United States armed forces, (ii) the fire department, (iii) emergency services, including any air ambulance or medical transport, (iv) the police department or other law enforcement entity, (v) a newsgathering organization, or (vi) film, television or commercial photography production activities conducted for a commercial purpose.

Newsgathering organization. The term “newsgathering organization” means an organization or entity that gathers and reports the news by publishing, broadcasting, or cablecasting articles, commentaries, books, photographs, video, film, or audio by electronic, print, or digital media such as radio, television, newspapers, magazines, wire, books, and the internet.

b. The operator of any heliport shall prohibit covered helicopters from conducting non-essential flights to or from any such heliport, except as otherwise directed by an aviation control tower or air traffic control center or in emergency circumstances where such operation is necessary to protect life, property or the public health and safety.



# AAM: Too Fast or Too Slow?

# East River Helicopter Incident

- In January 2016, the New York City Economic Development Corporation announced it would cut the number of sightseeing helicopter flights permitted to operate over New York by 50% and ban Sunday sightseeing flights altogether effective January 2017.
- According to Liberty's CEO, this city-imposed reduction hurt Liberty's financial condition and Liberty's chief pilot described the reduction as a "devastating blow."
- According to Liberty's CEO and COO, the CEO of NYONair approached them in 2017 about having Liberty provide helicopters and pilots for NYONair's rapidly growing FLYNYON aerial photography flight business. These flights were not subject to the city-imposed reduction in sightseeing flights because they were classified as "aerial photography" flights.
- According to Liberty's former safety officer, Liberty's chief pilot was solidly opposed to Liberty operating any doors-off flights during that period, but in September 2017, the chief pilot's stated policy was reversed. The former safety officer stated that Liberty's chief pilot explained to him that his "hands were tied," the change was necessary because Liberty was not making enough money. According to the former safety officer, the chief pilot told him "Without FlyNYON we have nothing."



# East River Helicopter Incident

- Harness and tether system purchased for doors off operations.
- The FAA inspectors observed the operation and took photos of the attached points for the tether and harness systems, then returned to the FSDO office to inform the FLM and POI of their observations.
- According to the PMI, the October 31, 2017 visit to Liberty Helicopters was the first the FAA learned that Liberty Helicopters passengers were using harness equivalent to mountain climbing harnesses and lanyards [tethers] on Liberty Helicopters aircraft and attached to hard points on the helicopter.
- When asked if he had concerns during the visit, the PMI said he was concerned with the whole operation; it was something very new to him, and he had never seen anything like that before.
- The Liberty Helicopters director of operations said the FAA had observed their FlyNYON flights and “left with no comments.”
- The Liberty Helicopters CEO said he was told by the NYONair CEO that the FAA had looked into the harness/tether system and said it was “ok.”



# East River Helicopter Incident

- Inadvertent activation of fuel shutoff lever by tether.
- Attempted ditching in East River.
- Helicopter inverts. Passengers wearing harness did not egress.





# Supplemental Restraint Final Rule

- After March 11, 2018 incident, on March 19, 2018, the NTSB issued Urgent Safety Recommendation which recommended that the FAA prohibit all open-door aircraft operations using passenger harness systems unless the harness system allows passengers to rapidly release the harness with minimal difficulty and without having to forcefully remove the harness.
- On March 22, 2018, FAA issued an Emergency Order of Prohibition prohibiting use of supplemental passenger restraint that cannot be released quickly in an emergency.
- At the time of the accident, no rules specifically addressed aircraft operations conducted with the use of SRS, including during operations with doors opened or removed.
- FAA Final rule issued August 22, 2024.



# State/Local Impact: Manhattan Air Mobility Hub

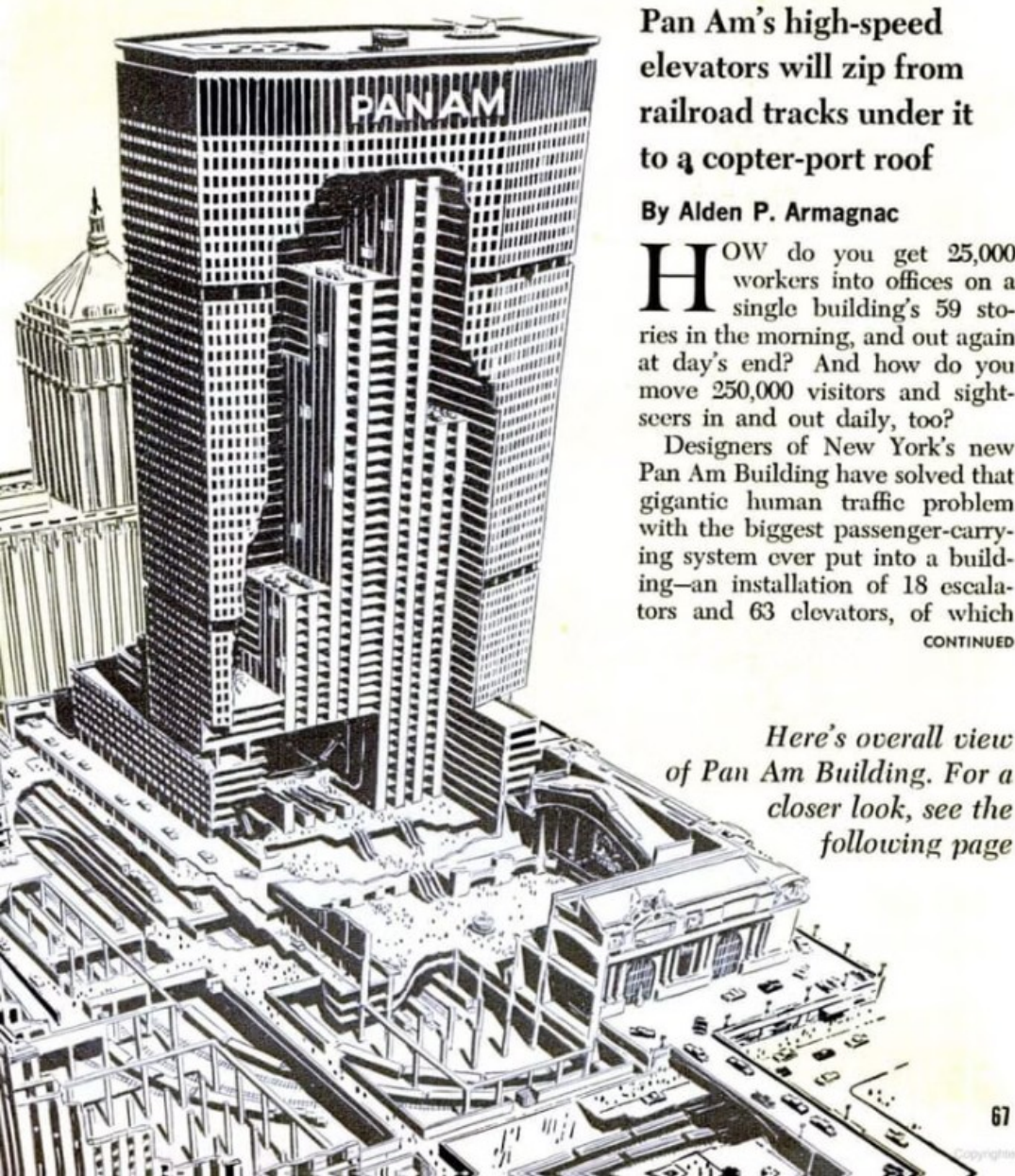
A revolutionary transportation link connecting Grand Central to NYC airports in under 10 minutes.

- Affordable aerial transit accessible to the public
- Seamless connections with Metro North and subway systems
- Multimodal design integrates with existing infrastructure
- Airlines offering special access to loyalty program members





# The Most Complicated Building Ever Built



Pan Am's high-speed elevators will zip from railroad tracks under it to a copter-port roof

By Alden P. Armagnac

**H**OW do you get 25,000 workers into offices on a single building's 59 stories in the morning, and out again at day's end? And how do you move 250,000 visitors and sight-seers in and out daily, too?

Designers of New York's new Pan Am Building have solved that gigantic human traffic problem with the biggest passenger-carrying system ever put into a building—an installation of 18 escalators and 63 elevators, of which

CONTINUED

*Here's overall view of Pan Am Building. For a closer look, see the following page*

## The Metlife Building Helicopter Disaster

On May 16, 1977, a devastating helicopter accident atop the then-Pan Am Building changed urban aviation forever.

A rotor blade failure killed five people and showered debris onto pedestrians below.

This tragedy halted Manhattan rooftop operations for decades and still shapes public perception of urban aviation safety



# Takeaways



# THANK YOU!

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