



National Press Photographers Association

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Via Email

May 15, 2019

Ms. Anita Ramasastry, President – Uniform Law Commission
Mr. Paul Kurtz, Chair – Tort Law Relating to Drones Committee
Mr. Mark Glaser, Vice-Chair – Tort Law Relating to Drones Committee
c/o Uniform Law Commission
National Conference of Commissioners on Uniform State Laws
111 North Wabash Avenue, Suite 1010
Chicago, Illinois 60602

Re: Tort Law Relating to Drones Act – May 13, 2019 Draft

Dear Ms. Ramasastry, Mr. Kurtz, and Mr. Glaser:

As an observer to this committee and general counsel for the National Press Photographers Association (NPPA), I write once again to express our concerns regarding the current draft of the Uniform Tort Law Relating to Drones Act (dated May 13, 2019) to be discussed during a conference call of the committee members on May 16, 2019.

We believe this latest revision of the draft rolls back the progress that was made during the good-faith discussions in which we participated at the March meeting in Washington, D.C. and in fact runs counter to the very prefatory language the Act intends to avoid by “inhibit[ing] the appropriate and beneficial development of unmanned aircraft systems for the variety of uses to which such technologies are suited.”

While the current draft now contains “a rebuttable presumption that the operation of an unmanned aircraft does not constitute substantial interference with the use and enjoyment of property under subsection (a) of this section if the unmanned aircraft was being operated for . . . purposes protected by the First Amendment,” it also contains another countervailing and nebulous “rebuttable presumption that the operation of an unmanned aircraft at an altitude lower than the height of the tallest structure on the property constitutes substantial interference with the use and enjoyment of the property under subsection (a).”

As with earlier draft language creating “strict liability for *per se* aerial trespass” and the 200’ minimum altitude restrictions we are once again concerned that these off-setting proposed presumptions will create even greater chance of and more-protracted litigation resulting in a chilling effect on the use of drones for newsgathering and other First Amendment protected

purposes. Of further real concern is the addition of undefined “emotional injury” to support a finding of “substantial interference with the use and enjoyment of the property” by the operation of an unmanned aircraft.

As we noted in our previous letter, it will be daunting if not impossible for journalists to obtain consent from land owners to operate drones over their property, especially during breaking news events. What person or entity with the legal authority to grant such aerial access would a journalist contact for permission to fly over a vast and varied assortment of real property? What about a condominium with 100 tenants? Or an empty field with no structures or residents? These questions remain unanswered.

Rather than provide guidance and certainty, the Act as drafted will continue to unduly inhibit the development of emerging uses for drones through technology-specific restrictions that are impossible to comply with, impossible to enforce, and likely will still conflict with the existing authority, regulations and intent of the Federal Aviation Administration (FAA).

Therefore, we respectfully request that the Committee along with the Commission consider our comments, revise accordingly or vote against approving the May 13, 2019 Draft as written.

Thank you for your attention and consideration in this matter. We look forward to working with you to create a more even-handed approach to this issue.

Very truly yours,

Mickey H. Osterreicher

Mickey H. Osterreicher
General Counsel