



## National Press Photographers Association

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### **Via Email**

June 21, 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 – Final Draft for Approval 7/17/19**

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

As an observer to this committee since its inception and as general counsel for the National Press Photographers Association (NPPA), I write in support of adoption (without change) of the final Tort Law Relating to Drones committee draft dated May 30, 2019, by the full Uniform Law Commission at its annual meeting in Anchorage next month.

While not perfect, we believe that the final draft reflects the reasonable compromises that have evolved since the beginning of this process; and if adopted by the Commission (and subsequently enacted by the states) the language, as currently drafted, will provide helpful guidance to the courts in determining the proper balance between the interests of land possessors and the rights of those using drones for First Amendment protected activities as well as other uses.

NPPA has previously submitted letters<sup>1</sup> expressing our substantial concerns about the drafting committee's prior adoption of severe rules such as "strict liability for per se aerial trespass" and the 200' minimum altitude restriction. Although these are no longer included in the draft, we still fear that the "substantial interference" determination along with "totality of the circumstances" considerations may lead to protracted litigation causing a chilling effect on the use of drones for newsgathering. We appreciate the committee's willingness to remove the original onerous rules and we are open to see how things develop in the states under the new language.

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<sup>1</sup> See Letter from the NPPA to Anita Ramasastry, et al., dated Feb. 27, 2019 at <https://tinyurl.com/yxv2sgvt> and May 15, 2019, at <https://tinyurl.com/yv8hu9pf>

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We also appreciate that the current draft still contains “a rebuttable presumption that the operation of an unmanned aircraft does not constitute substantial interference with the use and enjoyment of property . . . if the unmanned aircraft was being operated for . . . purposes protected by the First Amendment.” We strongly support this language and could not support a draft that fails to account for such protections in this area. It is our expectation that this language will be helpful to the courts in disposing of these matters in an expedited manner.

NPPA agrees that every ULC act should provide proper guidance, consistency and certainty throughout the country. As noted in the current comments to this Act, “existing state law should be applied to actions taken using unmanned aircraft,” rather than the introduction of “duplicative or conflicting provisions into state law.”

Therefore, we strongly support the Act’s premise “that not all technological developments require the development of technology-specific legislative or even significant changes to common law doctrines.” Comporting with the prefatory language, we too hope the Act will provide a more uniform, commonsense and least burdensome state-level response to the development and utilization of drones rather than the “patchwork quilt of regulatory and legal requirements” that is currently developing so as to avoid “inhibit[ing] the appropriate and beneficial development of unmanned aircraft systems for the variety of uses to which such technologies are suited.”

Thank you for your attention and consideration in this matter. We look forward to continuing to work with you on adoption after the current draft is approved at the annual meeting.

Very truly yours,

*Mickey H. Osterreicher*

Mickey H. Osterreicher  
General Counsel