Ms. Anita Ramasastry
c/o Uniform Law Commission
111 N. Wabash Avenue, Suite 1010 Chicago, IL 60602

May 15, 2019

Dear Ms. Ramasastry,

We are concerned about new discussions to reopen, at the 11th Hour, the well settled issue of where property rights begin and end with respect to drones. The most recent draft of the Uniform Tort Law Relating to Drones Act – circulated just three days before the committee's final conference call in preparation for the ULC's Anchorage meeting – contains a "presumption" that substantial interference has occurred when a flight dips below the height of the tallest structure on a given property.

This represents a 180-degree reversal on the work the Committee has undertaken over the months since the Detroit meeting, where the Committee determined that it would *not* rely on arbitrary lines in the sky to attempt to define property rights. The approach for property rights in the prior draft of the Act has been adopted and accepted repeatedly by this committee. To spend what little time we have left re-debating a settled issue is a misuse of committee resources and threatens to undermine our ability to bring this act to the floor.

Moreover, this new proposal presents substantial practical concerns that are even more significant than those raised by the initial, 200 foot "line in the sky" that the Committee rightly abandoned at its meeting in Detroit. Among other things, it is not clear how any drone operator could be expected to know the height of the tallest structure on any given piece of property; that is particularly true, for example, in rural areas, where property sizes are large and the tallest structure may be an isolated grain silo or antenna.

Because the FAA has generally restricted the maximum height of drone operations, properties with tall structures (such as high-rise office buildings) would offer significantly reduced navigable airspace for UAS operators and properties with structures taller than 400 feet could become *de facto* "no fly zones," in contravention of federal law and policy. These are just two of the many flaws with this last-minute proposal, and there is no way that these significant issues can be properly addressed in the limited time remaining in this process.

We should not reopen just this *one settled issue* as there has been give and take throughout this document.

If we are to reopen *this* settled issue, we must reopen discussions of all the gives that industry has made to the committee such as:

(1) various factors that help define "substantial interference" in the specific context of drones

(2) requiring that property lines be sufficiently noticed

(3) preempting locality rule making.

Finally, we join the other commenters that have raised concerns about the addition of an "emotional" injury or damage component. This threatens to inject an inherently subjective inquiry into the determination of substantial interference, and raises the specter of frivolous litigation about alleged "damages" or "injuries" that no drone operator could reasonably foresee.

This is the last meeting of this committee. It is a time to finalize the draft, rather than re-debate well settled issues or introduce substantive factors that fundamentally change the nature of the tort being contemplated. To do so threatens to undermine this entire process. The Committee should therefore reject the insertion of this new presumption, along with the addition of "emotional" as a category of injury or damage.

To the extent that the 11th Hour "presumption" is jammed through and becomes part of the Act, the undersigned will unfortunately have no choice but to vigorously oppose its approval, both in Anchorage and in the various state legislatures.

Sincerely,

Brian Wynne
President and CEO
Association for Unmanned Vehicle Systems International

Joshua Turner
Wiley Rein LLP
Counsel for Association for Unmanned Vehicle Systems International

Douglas K. Johnson
Vice President, Technology Policy
Consumer Technology Association

Lisa Ellman
Co-Executive Director
Commercial Drone Alliance

Gretchen West
Co-Executive Director
Commercial Drone Alliance

Carl M. Szabo
Vice President & General Counsel
NetChoice

Gregory S. Walden
Aviation Counsel
Small UAV Coalition