



NYU

**ROBERT F. WAGNER GRADUATE
SCHOOL OF PUBLIC SERVICE**

URPL-GP 2470

Transportation Policymaking

Fall 2021

Instructor Information

- Philip Damashek
- Email: pd2190@nyu.edu
- Office Hours: By appointment on Thursdays Bet. 5:30 and 6:30 p.m.

Course Information

- Class Meeting Times: Thursdays 6:45 to 8:25 p.m.
- Class Location: 25 W4

Course Prerequisites

- CORE-GP 1022 or URPL-GP 2660

Course Description

This course will provide an understanding of core legal concepts and selected legal issues in advancing urban transportation and infrastructure projects. Reviewing cutting edge projects in NYC and in other cities, the course will seek to give students a better understanding of legal liability risks and litigation vulnerabilities attendant to innovative projects. While primarily focused on NYC, the course will also look at global and national trends and associated legal issues. The course is designed to help planners, engineers, and lawyers learn how they can work together as a team to get to a legal contextual “yes” on their projects.

Required Readings

- Sadik-Khan, Jeanette and Solomonow, Seth. (2016). Street Fight, New York, New York, Viking

Assessment Assignments and Evaluation

- Class Attendance/Engagement/Preparation: 60%
- Final Project Paper/Presentation: 40%

Overview of the Semester

- Week 1
 - Date: September 2
 - Topic: Overview
- Week 2
 - Date: September 9
 - Topic: Working with your lawyers: The Role of the Legal Department/Government Counsel
- Week 3
 - Date: September 16
 - Topic: Managing Liability Risk, Government Planning and Design of Projects.
- Week 4
 - Date: September 23
 - Topic: Litigation, Part I: Introduction to Legal Concepts Underlying Court review of Transportation and Infrastructure projects.
- Week 5
 - Date: September 30
 - Topic: Litigation, Part II: Weaponizing the Environmental Review Laws and NIMBY Plaintiffs.
- Week 6
 - Date: October 7
 - Topic: Litigation, Part III: Bike Share Litigation, Road Design and Vision Zero Litigation.
- Week 7
 - Date: October 14
 - Topic: Litigation, Part IV
- Week 8
 - Date: October 21
 - Topic: Reimagining the Public Space and the Legal Framework to do so
- Week 9
 - Date: October 28
 - Topic: Vision Zero and the Reduction of Roadway Fatalities, and the Legal Framework. Adapting the Public Space to Public Needs during COVID:
- Week 10
 - Date: November 4
 - Topic: Reimagining the Public Space in light of COVID and for the Future
- Week 11

- Date: November 11
- Topic: Micro mobility: Bike share, Scooters, Electric Bikes and Mopeds.
- Week 12
 - Date: November 18
 - Topic: The Hard Work of Transportation Infrastructure:
- THANKSGIVING BREAK – NO CLASS
- Week 13
 - Date: December 2
 - Topic: Team Presentations
- Week 14
 - Date: December 9
 - Topic: Team Presentations

Letter Grades

Letter grades for the entire course will be assigned as follows:

Letter Grade	Points
A	4.0 points
A-	3.7 points
B+	3.3 points
B	3.0 points
B-	2.7 points
C+	2.3 points
C	2.0 points
C-	1.7 points
F	0.0 points

Student grades will be assigned according to the following criteria:

- (A) Excellent: Exceptional work for a graduate student. Work at this level is unusually thorough, well-reasoned, creative, methodologically sophisticated, and well written. Work is of exceptional, professional quality.
- (A-) Very good: Very strong work for a graduate student. Work at this level shows signs of creativity, is thorough and well-reasoned, indicates strong understanding of appropriate methodological or analytical approaches, and meets professional standards.
- (B+) Good: Sound work for a graduate student; well-reasoned and thorough, methodologically sound. This is the graduate student grade that indicates the student has fully accomplished the basic objectives of the course.
- (B) Adequate: Competent work for a graduate student even though some weaknesses are evident. Demonstrates competency in the key course objectives but shows some indication that understanding of some important issues is less than complete. Methodological or analytical approaches used are adequate but student has not been thorough or has shown other weaknesses or limitations.
- (B-) Borderline: Weak work for a graduate student; meets the minimal expectations for a graduate student in the course. Understanding of salient issues is somewhat incomplete. Methodological or analytical work performed in the course is minimally adequate. Overall performance, if consistent in graduate courses, would not suffice to sustain graduate status in “good standing.”
- (C/-/+) Deficient: Inadequate work for a graduate student; does not meet the minimal expectations for a graduate student in the course. Work is inadequately developed or flawed by numerous errors and misunderstanding of important issues. Methodological or analytical work performed is weak and fails to demonstrate knowledge or technical competence expected of graduate students.
- (F) Fail: Work fails to meet even minimal expectations for course credit for a graduate student. Performance has been consistently weak in methodology and understanding, with serious limits in many areas. Weaknesses or limits are pervasive.

Detailed Course Overview

WEEK 1: Overview

Part I

- Structure and goals of the Course.
- Review and acknowledgment of Course Syllabus.
- Expectations and assignments.

Part II

- Court Structures-Federal, State and NYC.
- Sources and Hierarchy of Laws.
- Legal issues and Constraints (statutory and common law).
- Analytic and Precautionary tools.
- Pilots, Temporary and Permanent Approaches.

Readings Due

1. [Introduction to American Law](#)
2. [NY Courts Court Structure](#)
3. NY Times Opinion, [Tear Down the Restaurant Sheds Before It's Too Late](#)

WEEK 2: Working with your lawyers: The Role of the Legal Department/Government Counsel.

Part I:

- Creative lawyering: how to work as a team to implement projects. Instructor will talk about how creative lawyering and working with planners, engineers, and lawyers helped to reimagine the use of public space during the Bloomberg and Di Blasio Administrations.

Part II:

- Regulatory v. Contracting: understanding two legal approaches, to enable implementation of cutting-edge transportation and infrastructure projects.

Readings Due

1. [NYC Gov Traffic Rules](#) (selected portions, TBA)
2. [Harvard Law Review Government Counsel and Their Obligations](#)
3. Review, [NYC Bike Share Contract](#)

WEEK 3: Managing Liability Risk, Government Planning and Design of Projects

- Qualified Immunity and design, legal protections for innovative government planning.
- **Guest Speaker, Allisandro Olivieri, General Counsel of the NYC Department of Parks and Recreation**

Readings Due

1. <https://.law.hofstra.edu/cgi/viewcontent.cgi?article=2282&context=hlr>
2. [Justia Law Turturro v. City of New York](#)
3. [New Challenges in Asserting Qualified Immunity in Roadway Design Cases](#)

WEEK 4: Litigation, Part I: Introduction to Legal Concepts Underlying Court review of Transportation and Infrastructure projects.

- Scope of review and discussion of relevant cases; legal issues and constraints (statutory and common law); analytic tools in the legal context; assessing legal risk and liability; anticipating potential litigation and prospective stakeholders and plaintiffs.

Readings Due

1. Article 78 of New York Civil Practice and Rules
2. [Halperin v. City of New Rochelle](#), 24 A.D.3rd, 768,770 (2nd Dep't 2005)
3. [Matter of Save America's clocks, Inc. v.City of New York](#) 33N.Y.3rd198 (2019)
4. [Pell v. Board of Educ.of Union](#) Free Dist. No.1 of Towns Scarsdale & Mamaroneck, 34 N.Y. 2d,222,231(1974)
5. [Decision in COQUIS SALES APPLIANCE](#), LLC, et al. v. DEBLASIO, et al., Index No. 260317/2019 Bronx Supreme Court,
6. Street Fight, Chapter 7, pp. 164-178

WEEK 5: Litigation, Part II: Weaponizing the Environmental Review Laws and NIMBY Plaintiffs.

Readings Due

1. [LEGAL EASE: How NIMBYs Use 'Environmental Review' to Stop Green Projects](#)
2. [Rocky's Last Laugh the Westway Controversy Comes Full Circle](#)
3. Read [class action settlement-Eastern pdf Paralyzed Veterans Assoc. n/k/a United Spinal Association](#),
4. APS Decision, [Federal Court Rules NYC Discriminates Against Blind and Low Vision Pedestrians by Failing to Make Crosswalk Signals Accessible](#)
5. [ALL RISE! Judge Rules City Can Build 14th Street 'Busway'](#)
6. [Sunset Park Safety Improvements Delayed Until at Least October After DOT Settles Lawsuit](#)

WEEK 6: Litigation, Part III: Bike Share Litigation, Road Design and Vision Zero Litigation.

Readings Due

1. Justice Kern Court decisions on NYC Bike Share locations (Plaza Hotel, Petrosino Square, West 13th Street and others)-citations to be distributed
2. [Judge throws out lawsuit over Fresh Pond Road bus lane in Ridgewood](#)
3. [Central Park West Bike Lane Lawsuit Thrown Out of Court](#)
4. [BREAKING: Judge Allows DOT to Put Morris Park Avenue on a Road Diet](#)

WEEK 7: Litigation, Part IV

- **Guest Speaker: Mark Muschenheim, Senior Counsel, NYC Law Department**

Readings Due

1. [Five Years Later & The Prospect Park West Bike Lane War Rages On](#)
2. Street Fight, Chapter 7, pp. 164-178

WEEK 8: Reimagining the Public Space and the Legal Framework to do so:

- accommodating pedestrians, buses, bicycles, and cars; Plaza Programs around the world; the NYC Plaza Program; bus shelters; bus and bike lanes; pedestrian space and refuge; Greenstreets.

Readings Due

1. Street Fight, Chapters 5,6,7 pp.143-164, & Chapter 11;
2. [Public Plazas: A Tale of Two Cities](#)

WEEK 9: Vision Zero and the Reduction of Roadway Fatalities, and the Legal Framework. Adapting the Public Space to Public Needs during COVID

- Understanding Vision Zero;
- Congestion Pricing;
- Street Improvement Projects (SIPS);
- The NYC Transportation Master Plan;
- Open Streets, Open Restaurants and Open Sidewalks;
- **Guest Speaker; Karin Sommer, Executive Director, Transportation Planning and Management, NYC Department of transportation**

Readings Due

1. [How does Vision Zero differ from the traditional approach to traffic safety?](#)
2. [NYC Gov, Vision Zero Reimagining The Plan](#)
3. [NYC Administrative Code, Title 18: Parks](#)
4. [YPD Crime Article 30](#)
5. [The PEOPLE of the State of New York v. Yehuda SALAMON, Defendant](#)
6. [NY Courts The People of the State of New York, Plaintiff, v Isaac Sanson, Defendant.](#)
7. [Free Parking Isn't Free — But Upper West Side Car Owners Want To Keep It That Way](#)

WEEK 10: Reimagining the Public Space in light of COVID and for the Future

- **Guest Speaker: Jeanette Sadik- Khan and Seth Solomonow, Bloomberg Associates**

Readings Due

1. [Surrendering Our Cities to Cars Would Be a Historic Blunder](#)
2. [Public Plazas: A Tale of Two Cities](#)

WEEK 11: Micro mobility: Bike share, Scooters, Electric Bikes and Mopeds

- Legal issues in the NYC and San Francisco programs.

Readings Due

1. Review, [NYC Bike Share Contract](#),
2. Read: [Powered Scooter Share Permit Program](#)
3. Street Fight, Chapter 9

WEEK 12: The Hard Work of Transportation Infrastructure:

- Roads, bridges and tunnels - innovative legal approaches to maintaining a state of good repair
- **Tentative Guest Speaker: Polly Trottenberg, Deputy Secretary of Transportation**

Readings Due

1. Street Fight, Chapter 13.
2. [New Legislation for Oklahoma P3 Projects and Infrastructure](#)

WEEK 13: Team Presentations

WEEK 14: Team Presentations

Academic Integrity

Academic integrity is a vital component of Wagner and NYU. All students enrolled in this class are required to read and abide by [Wagner's Academic Code](#). All Wagner students have already read and signed the [Wagner Academic Oath](#). Plagiarism of any form will not be tolerated and students in this class are expected to report violations to me. If any student in this class is unsure about what is expected of you and how to abide by the academic code, you should consult with me.

Henry and Lucy Moses Center for Students with Disabilities at NYU

Academic accommodations are available for students with disabilities. Please visit the [Moses Center for Students with Disabilities \(CSD\) website](#) and click on the Reasonable Accommodations and How to Register tab or call or email CSD at (212-998-4980 or mosescsd@nyu.edu) for information. Students who are requesting academic accommodations

are strongly advised to reach out to the Moses Center as early as possible in the semester for assistance.

NYU's Calendar Policy on Religious Holidays

[NYU's Calendar Policy on Religious Holidays](#) states that members of any religious group may, without penalty, absent themselves from classes when required in compliance with their religious obligations. Please notify me in advance of religious holidays that might coincide with exams to schedule mutually acceptable alternatives.

Class Policies

[Feel free to make this section your own. Add any additional instructions or information that you believe students need to know. Some examples of categories for this section: attendance [for those of you teaching intensive courses, please be explicit since missing even one day or a portion of a day may be too much and students may need to choose a different course], reporting illnesses or emergencies, participation, re-grading, late submission policy, technology use in the classroom, your response time, [incomplete policy](#), [course withdrawal policy](#), etc.]