



NYU

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

URPL-GP 2470

Transportation Policymaking Spring 2023

Instructor Information:

- Philip Damashek
- Email: pd2190@nyu.edu
- Office Hours: By appointment
- Class Meeting Times; Wednesdays 4:55 to 6:35 p.m.
- Class Location: Silver Room 518, Washington Square

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 Text:

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

Assessment Assignments and Evaluation

- Class Attendance/Engagement/Preparation: 25% • Written Assignments 35% • Final Project Paper/Presentation: 40%

Overview of the Semester

- Week 1
 - Date: January 25
 - Topic: Overview
- Week 2
 - Date: February 8
 - Topic: Managing Liability Risk
- Week 3
 - Date: February 8
 - Topic: Working with your lawyers: The Role of Government Counsel /the Legal Department, Guest Speaker, Alessandro Olivieri
- Week 4
 - Date: February 15
 - Topic: Litigation Part I: Introduction to Legal concepts Underlying Court Review of Transportation and Infrastructure projects.
- Week 5
- Date: February 22
 - Topic: Reimagining the Public Space, Guest Speakers, Janette Sadik-Khan and Seth Solomonow
- Week 6
 - Date: March 1
 - Topic: Litigation, Part II: Bike Share Litigation, Road Design and Vision Zero Litigation.
- Week 7
 - Date: March 8
 - Topic: Litigation, Part III Guest Speaker, Mark Muschenheim

SPRING BREAK – NO CLASS

- Week 8
 - Date: March 22
 - Topic: Litigation Part IV
- Week 9
 - Date: March 29
 - Topic: Reimagining the Public Space and the Legal Framework for Implementation
- Week 10
 - Date: April 5
 - Topic: Vision Zero Concepts: Street Improvement Projects-Reducing Roadway Injuries and Fatalities and the Legal Framework
- Week 11
 - Date: April 12
 - Topic: Guest Speaker, Karin Sommer
- Week 12

- Date: April 19
- Topic: The Hard Work of Transportation Infrastructure:
- Week 13
 - Date: April 26
 - Topic: Final Presentations
- Week 14
 - Date: May 3
 - Topic: Review; Final 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 1: Structure and goals of the Course.

Review and acknowledgment of Course Syllabus.

Expectations and assignments.

Part 2: Analytic and Precautionary tools.

Sources and hierarchy of laws.

Court Structures-Federal, State and NYC.

Readings:

Streetfight, Preface and Chapters 1,2,3

1) Structure of the New York State Court System:

https://video.dos.ny.gov/lg/handbook/html/the_judicial_system.html

2) The U.S. Court System Explained:

<https://www.democracymocket.com/explainers/the-u-s-court-system-explained/>

3) Structure and Sources of American Law::

http://www.nyc.gov/html/conflicts/downloads/pdf2/municipal_ethics_laws_ny_state/introduction_to_american_law.pdf

<https://www.lexisnexis.com/en-us/lawschool/pre-law/intro-to-american-legal-system.page>

4) Google: "How to think like a Lawyer" (wikihow.com)

Week 2:

Managing Liability Risk

Government planning and design of projects:

qualified Immunity and design: legal protections for innovative government planning.

Readings:

Streetfight Chapters 4 and 7

Google and read "The Five Elements of Negligence" (law.hofstra.edu site)

Google and read *Turturro v. City of New York* (JUSTIA law site)

Google and read "New Challenges in Asserting Qualified Immunity in Roadway Design Cases" (JD SUPRA site)

Browse: <https://mutcd.fhwa.dot.gov>

**Week 3: Working with Your Lawyers: the Role of Government Counsel/The Legal Department
Guest Speaker, Alessandro Olivieri, General Counsel of the NYC Department of Parks and Recreation**

Readings:

Streetfight, Chapter 10

https://harvardlawreview.org/wp-content/uploads/pdfs/government_counsel.pdf

("Government Counsel and Their Obligations" (Harvard Law Review , March 1, 2008)

<https://nyccharter.readthedocs.io/c21/> (NYC Charter, Chapter 21, Dept. of Parks and Rec.)

**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:

Article 78 of New York Civil Practice and Rules All
these cases can be googled:

[Halperin v. City of New Rochelle, 24 A.D. 3rd 768 \(2nd Dep't 2005\)](#)

[Matter of Save America's clocks, Inc. v. City of New York \(33 N.Y. 3rd 198 \(2019\)\)](#)

[Pell v. Board of Educ. of Union Free Dist. No. 1 of Towns Scarsdale & Mamaroneck, 34 N.Y. 2d, 222, 231 \(1974\)](#)

Court decision in [COQUIS SALES APPLIANCE, LLC, et al. v. DEBLASIO, et al.](#), Index No. 260317/2019 Bronx Supreme Court

Week 5: Reimagining the Public Space

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

Readings:

***Streetfight*, Chapters 5,6,9,12**

Week 6: Litigation, Part II: Bike Share Litigation, Road Design and Vision Zero Litigation

Read Justice Kern Court decisions on NYC Bike Share locations (Petrosino Square, West 13th Street and Plaza Hotel) which can be found:

Google and read Friends of Petrosino Square v. Sadik-Khan (casetext.com Website);

Google and read Matter of Cambridge Owners Corp. v. New York City Department of Transportation (casetext.com);

Google and read Matter of Board of Mgrs. of the Plaza Condominium v. New York City Department of Transportation (Justia.com Website)- Please read both the opinion of Justice Kern (2014) and the Appellate Division opinion (2015).

Google and read "Judge Dismisses Brooklyn NIMBY Bike-Share Suit (nyc.streetsblog.org)

Google and read "Central Park West Bike Lane Lawsuit Thrown Out of Court" (nyc.streetsblog.org)

Google: "Breaking-judge-allows-dot-to-put-morris-park-avenue-on-a-road-diet/ avenue-on-a-road-diet" (streetsblog)

Week 7: Litigation Part III-Guest Speaker: Mark Muschenheim, Senior Counsel, NYC Law Department

Readings:

Streetfight, Chapter 8

Google and read "Five Years later & The Prospect Park West Bike Lane War Wages On" (gothamist.com)

Week 8: Litigation, Part IV: Weaponizing The Environmental Review Laws and NIMBY plaintiffs; The Americans with Disabilities Act (ADA) - Scope And Impact Readings:

1a. Google: "LEGAL EASE: How NIMBYs Use 'Environmental Review' to Stop Green Projects" (use nyc.streetsblog.org Website)

1b. Google: the American with Disabilities Act: A Brief Overview (use the askjan.org Website)

1c. Google:" The State Environmental Quality Review Act (SEQRA) " (use www.ongov.net)

2. Google: "Rocky's Last Laugh the Westway Controversy Comes Full Circle" (observer.com Website)

3. Google: class action settlement-Eastern Paralyzed Veterans Assoc. n/k/a United Spinal Association, v. The City of New York (use www.unitedspinal.org Website) .

4. Google: "Federal Court Orders New York City to Install Thousands of Accessible Crosswalks Signals over the Next Ten Years (use [dralegal website](#). Please also read the contents in the link in this article ("Read the Decision here")) (dralegal.org Website)

Week 9: Reimagining the Public Space and The Legal Framework for Implementation

Accommodating pedestrians, buses, bicycles, micro-mobility and cars;
Public Space Programs around the world; bus shelters, bus and bike lanes; pedestrian space and refuge the NYC Plaza program and other Public Space Programs ; Open Streets, Open Restaurants .

Readings:

Streetfight, Chapter 11

Google:" Ridgewood-naysayers-fail-to-convince-judge-to-strike-down-fresh-pond-bus-lanes"

Google: "Public-plazas-a-tale-of-two-cities" (Streetsblog)

Google: "ALL RISE! Judge Rules City Can Build 14th Street 'Busway'"(nyc.streetsblog.org website)

[Read NYC Bike Share Contract \(from NYCDOT website\)](#)

Week 10: Vision Zero Concepts; Street Improvement Projects - Reducing Injuries and Fatalities, And The Legal Framework

Understanding Vision Zero; Congestion Pricing;

Street Improvement Projects (SIPS); The NYC Transportation Master Plan; •;

Browse: https://www1.nyc.gov/html/dot/html/motorist/traffic_rules.shtml

(Google:"How does Vision Zero differ from the traditional approach to traffic safety" (visionzeronetwork.org website)

Google and read: <https://www1.nyc.gov/content/visionzero/pages> (Vision Zero-Building a Safer City)

Google the Court Decision: " Right of way NY Court of Appeals " (case name is People v. Carlos Torres [No.52]; People v. Dave Lewis {No.53}

Read *Streetfight* Chapters 10

**Week 11: Guest Speaker: Karin Sommer, Executive Director, Transportation Planning and Management,
NYC Department of Transportation**

Readings: TBA

Week 12: The Hard Work of Transportation Infrastructure: Roads, Bridges and Tunnels
Maintaining a state of good repair: innovative approaches.

Readings: [https://en.wikipedia.org/wiki/2003 Staten Island Ferry crash](https://en.wikipedia.org/wiki/2003_Staten_Island_Ferry_crash)

<https://www.roadsbridges.com/no-10-bridge-city-island-bridge-over-eastchester-bay>

<https://www.nytimes.com/2021/11/10/briefing/infrastructure-bill-joe-biden.html>

<https://www.thecity.nyc/2021/11/9/22773354/infrastructure-deal-shuts-out-nyctransportation-projects>

<https://www.levelset.com/blog/new-legislation-for-oklahoma-p3-projects-and-infrastructure/>
Streetfight, Chapter 13

Week 13: Final Project Presentations

Week 14: Review.

Final Project Presentations **Readings:**
Streetfight, Chapter 14

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 Page 8 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.