Government Law Center News

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Recent Publications

• Medical Marijuana Meeting Zoning: Can You Grow, Sell, and Smoke
That Here?

- Practical Issues in Building Green: Siting, Materials, Water Use, and Retrofitting
- Urban Renewal and the Story of Berman v Parker
- Urban Redevelopment Policy, Judicial Deference to Unaccountable Agencies, and Reality in Brooklyn’s Atlantic Yards Project

Upcoming Presentations

- Siena College Constitution Day
- Annual Meeting of the New York Planning Federation
- ABA State & Local Fall Meeting
- Public Corruption 101 for Land use and Planning Professionals: A National Perspective at the Fourth Annual Ethics Seminar

News

GLC Names Rappleyea Government Scholar in Residence

The Government Law Center is pleased to name Abraham M. Lackman as the Rappleyea Government Scholar in Residence. Lackman will conduct research focused on overall State budgetary and pension issues. Lackman is currently the principal in Praxis Insights, a higher educational and governmental consultancy firm that he founded in 2009. He holds a bachelor's degree from New York University and a master's degree in economics from the State University of New York at Albany. Please click here for more information about Lackman and the Rappleyea Government Scholar in Residence program.
Upcoming Events

Panel Discussion on Federal Universal Service Reforms & Broadband Deployment

On Wednesday, October 6, 2010, the GLC and the Federal Communications Bar Association are co-sponsoring a program entitled, "Federal Universal Service Reforms & Broadband Deployment." The panel discussion will take place from 1:00 - 5:00 pm at the Hilton Garden Inn at Albany Medical Center. The keynote address will be given by William F. Pelgrin, former New York Director of the Office of Cyber Security and Critical Infrastructure Coordination. Albany Law School Professor Robert A. Heverly will participate as a panelist. A networking reception will follow the program. For more information, [click here](#).

State Taxpayer Advocacy Conference

The Government Law Center and the Law Clinic and Justice Center’s Low Income Taxpayer Clinic will host a taxpayer advocacy conference at Albany Law School on October 8, 2010. The conference theme, addressing systemic tensions during tight budget times, is expected to attract a national audience of state tax commissioners, advocates, practitioners and academics.

Nina E. Olson, the National Taxpayer Advocate, will deliver the keynote address, which will involve developing a strong taxpayer advocate's office through differing administrations. Ms. Olson serves as an advocate for taxpayers to the IRS and Congress and leads the Taxpayer Advocate Service, a nationwide organization of approximately 2,000 taxpayer advocates who help U.S. taxpayers resolve problems and work with the IRS to

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**GLC Blogs**

Patricia E. Salkin
"Law of the Land"
A Blog on Land Use Law & Zoning

Amy Lavine
"Community Benefits Agreements"
Linking Good Jobs, Affordable Housing, Social Justice, and Livable Neighborhoods to Development Projects

**GLC Research**

Government Law Online
A clearinghouse

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Print Newsletter

To view our Spring 2010 print newsletter for more in-depth information about the GLC, as well as recent and upcoming events, [click here](#). If you would like to receive our annual print newsletter, please contact the Government Law Center at 518.445.2329 or [krose@albanylaw.edu](mailto:krose@albanylaw.edu).
containing government law and public policy articles, studies, papers and reports written by faculty, staff, and students of Albany Law School.

**Racing and Gaming Today**

Bennett Liebman  
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correct systemic and procedural problems. The conference is intended to serve as a forum for discussion and debate on the systemic tensions involved with revenue collection and taxpayer advocacy and is expected to draw significant interest given the economic downturn and state revenue shortages throughout the country. Conference participants include state tax commissioners, advocates, academics and practitioners. In addition to Nina Olson, confirmed participants include Jamie Woodward, New York’s Tax Commissioner, Jack Trachtenberg, New York’s Taxpayer Advocate, Professor Leslie Book, Villanova University School of Law and Assistant Clinical Professor Deborah Kearns, Albany Law School.

Albany Law School is grateful to Morrison and Foerster LLP, and Teal Becker and Chiaramonte for their underwriting support. Click here for more details and to register.

**Symposium on Education Reform**

The Government Law Center is pleased to be co-hosting a symposium on education reform with the Albany Government Law Review on November 10th & 11th 2010. This event will be headlined by keynote speaker Charles P. Rose, current General Counsel for the U.S. Department of Education. Mr. Rose will speak about federal education reform and public policy on Wednesday, November 10th at 6 p.m. in the Dean Alexander Moot Courtroom at Albany Law School. Albany Mayor Gerald “Jerry” Jennings will provide opening remarks.

On Thursday, November 11th the program features a roundtable discussion on New York education reform. Participants include: Kathy Ahearn, former counsel to NYS Regents, Hank Levin, from Columbia Law/Teacher's College, Thomas Carroll, Chair of the Foundation for Education Reform and Accountability and Pauline Kinsella, NYSUT
Executive Director of Field Services, with Moderator Scott Waldman, from the Times Union.

For additional information, contact Ian Group at the Albany Government Law Review at (518) 472-5863 or igroup@albanylaw.edu.

Other Activities

GLC Examines Local Government Efficiency in New Paltz
The Town and Village of New Paltz have jointly undertaken a government efficiency project to develop new ways to structure operations to provide similar or better services and reduce the cost of services. The Government Law Center has partnered with Fairweather Consulting of New Paltz to research and develop information that will assist the joint Town and Village Government Efficiency Committee in developing restructuring proposals. Options under consideration include establishment of coterminous town/village, village dissolution, incorporation of a city, and share services arrangements. For more information about this project, contact Robert Batson, Government Lawyer in Residence at rbats@albanylaw.edu.

Early Stage Business Support Project with NYSERDA Draws Interest Across New York State
The GLC will lead the law school’s efforts in providing legal education and early stage business support to New York’s cleantech and alternative energy companies, assisting in their development, growth and success. Working with the New York State Energy Research and Development Authority (NYSERDA), Albany Law School has committed to providing education and guidance to companies in addressing the legal aspects of development and commercialization of cleantech products and services in New York State.
The GLC is currently working on the creation of a cleantech law seminar series to assist early stage businesses as well as internship programs for training the next generation of green collar lawyers to meet the needs of the state’s future clean energy industries. The GLC has also created a web-based resource for early stage alternative energy companies in New York. The site, www.albanylaw.edu/esb, provides access to the Legal Handbook for Early Stage Business as well as information and materials on regional resources and a network of legal providers throughout the State.

The GLC’s green initiative, led by staff attorney and project director Pam Ko, has been bolstered by a four-year $250,000 incentive from NYSERDA. NYSERDA provides energy-related technical and financial packaging assistance to businesses and institutions to promote energy efficiency and economic development, as well as providing energy research and development programs that promote safe and economical energy production efficiency technologies in New York State. NYSERDA also analyzes the effect of New York’s energy, regulatory, and environmental policies on the State’s business, institutional, and residential energy consumers.

GLC Executive Director Bennett Liebman Speaks to Legislative Staff from Azerbaijan

Executive Director Bennett Liebman spoke to a delegation of legislative staff from Azerbaijan on the topic of the “Essential Components of a Government Ethics Program,” on August 18 in the State Capitol. Also speaking to the delegation was advisory board member Robert Freeman. This program was in partnership with the Division of the Budget and the International Center of the Capital Region, which served as the local host for this International Visitor Leadership Program of the US State Department.
This summer, the GLC was fortunate to have a number of law students working in the center on a variety of projects. In their own words, here is a brief summary from each of our students about their work in the GLC:

This summer I worked on a wide variety of projects. I worked with Bob Batson, the Government Lawyer in Residence, on a study regarding options for the consolidation of two towns in Northern New York. I also worked with Dean Salkin providing research on numerous topics such as legal aspects of land use moratoria in New York, the land use aspects of growing, selling and using medical marijuana,
federalism and land use, and a number of other zoning related topics. In addition, I had the opportunity to work with a State Bar Task Force focused on ethics reform. I provided research on the topics of enforcement, due process and municipal law. The various projects helped me get an understanding of how land use is regulated by state governments and gave me an appreciation of the intergovernmental dynamics in this field.

I worked with Government Lawyer in Residence Bob Batson on a study involving the Village of Saranac. This village is located within two counties and three townships, and they were seeking to reduce their overhead. I drafted a step-by-step guide for non-law-trained readers on how to annex territory to make the county and town borders coterminous, and on how to dissolve the village. I worked with staff Attorney Amy Lavine on constitutional standards for zoning historic districts, and I worked with attorney Rose Mary Bailly on an analysis of the New York’s Family Health Care Decisions Act, looking at the impact that the Act would have on patients who suffered from mental retardation and mental disability, and I compared the Act with the provisions under 17A of the Surrogate’s Court Procedure Law. My last project involved a comparison of alimony statutes in the 50 states, research being done to inform pending legislation in New York that would affect how alimony is determined.

This summer I worked on three projects at the Government Law Center: I read and briefed land use cases for Dean Salkin’s Law of the Land Blog; I assisted Professor Melissa Breger with materials for a Family Law CLE Seminar; and I researched the topic of Illegal Junkyards for attorney Amy Lavine. The case summaries, at times, reinforced concepts introduced in my first year property course and, at
other times, introduced new and emerging issues in land use law. Research for the Family Law CLE created an awareness of the breadth of family law that I previously did not possess. Finally, researching the subject of municipal regulation of junkyards gave me an extensive review of statutory research and construction, as well as the opportunity to conduct in-depth research on a single topic.

I also had the opportunity to attend oral argument at the New York Court of Appeals, where I saw the father of one of my classmates present his client’s case. The case was eventually decided in favor of his clients. It was my first time observing proceedings at this level and I was awestruck by the level of the presentations made by both sides and by the probing questions asked by the justices.

The major projects I worked on this summer included ethical issues pertaining to social networking and local government, the pros and cons of Inspector General Office’s and whether or not they would be beneficial at the local government level, and paperless record keeping - how it is accomplished and the legal and ethical considerations for maintaining electronic files. The Inspector General Project was interesting because I learned the difference between the IG office, ethics commissions and DA’s Offices. It was also interesting to see the number of local governments utilizing Inspector Generals for investigations and performing audits. While this topic was interesting, I think the most intriguing and relevant project was social networking and government. Social networking has become such a large part of everyday life for both individuals and businesses it’s no wonder local governments are now turning to the same outlets. The final article was tailored to local government in the land use context but I think many of the principles are transferrable to other entities as well. I also enjoyed reading the articles about lawyers and judges who found themselves in trouble after posting opinions on social networking sites. People never cease to amaze me!
Overall, I was intrigued by my research topics. I worked with Dean Salkin on all of my projects.

Working at the Government Law Center has been an exciting, interesting, and informative experience for me. I entered into the position knowing very little about land use law. However, after only one summer at the GLC, I feel as I have learned an abundance on the subject. Two projects in particular I worked on with Dean Salkin, an expert in the field. The first project was an article on social networking and land use law—basically how social networks such as Facebook, LinkedIn, and Twitter have changed the way players in the land use game reach out to their audience to send information and receive input. It is a cutting-edge issue that I found to be most exciting to work on. The second project was researching and writing a memo on zoning for sorority and fraternity housing. It is a very complex issue, as zoning laws are local and, therefore, vary from municipality to municipality. Working at the Government Law Center has enhanced my research and writing abilities, while also exposing me to a new area of law that I had been previously uninformed about.

This summer I have been working with Sharmaine Moseley on projects for the Albany Citizens’ Police Review Board. I have assisted with the drafting of written quarterly reports, and I conducted research regarding the practices of other citizen police review boards in New York. In addition, I have also worked on updating the CPRB database, entering in complaint files and statistical information. Albany Law School is the only academic institution in the country to staff an independent citizen police oversight board. It was a unique and interesting experience.
This summer at the Government Law Center I worked on a wide variety of projects reflecting the diversity of the Government Law Center itself. I began by working with Professor Rose Mary Bailly researching laws in several states with heightened execution requirements for a durable power of attorney, which reflect the recent change in NY’s law. I learned that the added formality in execution of these documents acts to help protect the elderly from fraud and abuse, while simultaneously making the document both more respected and enforceable. Later in the summer I worked on a paper on affordable housing for Dean Salkin, researching both state and federal initiatives to help combat the affordable housing crisis the nation is facing today. Additionally, I spent some time on climate change and efficiency law and most recently worked with Staff Attorney Pamela Ko, specifically on the “principal/incident” view of a mortgage/note.

From my first day as a research assistant in the beginning of the summer, my experience at the Government Law Center has provided me with countless interesting and challenging assignments covering all different legal topics. The majority of my time was spent briefing lengthy and detailed court decisions dealing with constitutionally protected rights afforded to property owners, appealing zoning board decisions, issuance and adopting of ordinances and claims brought under the Religious Land Use and Institutionalized Persons Act for Dean Salkin’s Land Use blog.

I researched laws, regulations, decisions programs, and other miscellaneous incentives dealing with environmental justice and land use for a conference Dean Salkin will be speaking at in August. After compiling articles and information (including a 200 page State by State
survey), I made a summary and organized each according to topic and type of source. I was also fortunate to work with Professor Debbie Kearns in the Clinic and Justice Center, helping to plan a Taxpayer Advocacy conference scheduled for October 8th at Albany Law School. I reached out to several regional and national tax groups as part of an initiative to create an “invitee list” for all those interesting in attending the seminar.

This summer at the Government Law Center I worked on a project for Rose Mary Bailly concerning the new Powers of Attorney in New York State. I researched all cases concerning the new law and wrote a brief description of each case. Having had some previous experience with the new Power of Attorney form, I was able to see what the New York courts were actually saying about it.

Another project I worked on dealt with the Purchase of Development Rights and the Transfer of Development Rights programs. In this project, I worked with Amy Lavine to find both case law and statutory law concerning PDR and TDRs. I had never spent much time researching either program and I learned a lot about the purposes behind PDR and TDRs as well as the pros and cons to each program.

I worked again with Rose Mary Bailly on a project that concerned Spousal Right of Election and Waiver. In this project, I searched for case law, statutory law, as well as law review articles dealing with undue influence in marriage and the effect on a spousal right of election upon one party’s death. I was surprised to find that courts had not dealt with this issue in a very consistent or effective way and that New York was one of only a few states where the court had found a way to grant equity to the decedent’s family.

The final project I worked on was concerning horse racing legislation with Bennett Liebman. For this project, I searched for statutory law passed this year in many major horse racing states. It is interesting to
see how each state passes different laws dealing with the same thing.

- Jessica Clemente ‘12
Schodack Landing, NY

This summer at the GLC I helped to update a paper describing the state of moratoria law in New York - an interesting topic as there is no specific statute and the common law rules handling the subject evolve. I also got to work on aspects of a paper focused on special constraints and duties for land use lawyers to carry out their duties ethically. I spent the most time compiling sources and drafting a chapter on form-based codes for a major national treatise written by Dean Salkin. Form-Based Codes is a modern form of land use control where a city is zoned and designed based on its physical form as opposed to use which governs traditional zoning. My most recent project is related to green development in New York.

-Allyson Stein ’11

I worked with Dean Salkin on several projects over the summer researching government initiatives at the state and local level addressing the issues of sustainable development, energy efficiency, and climate change. The most interesting initiative I encountered dealing with these issues is called property assessed clean energy (PACE), a program that allows local governments to provide loans to residents that are paid back through property assessments for energy efficiency upgrades to their homes. I also worked on a project that had me research paperless initiatives taken by local governments throughout the United States.

- Paul McGrath ’12
Inver Grove Heights, Minnesota
Undergraduate Students in the GLC

This summer the Government Law Center also hosted a number of college student interns. Siena College Pre-Law Fellows Joshua Gregg and Stephen Archer worked on a major project to assist with an empirical study on the Religious Land Use and Institutionalized Persons Act. In addition, they worked on state budget reform issues and green development initiatives. Oneonta student Ben Kosinski reviewed reported cases on horse racing. He also researched links between the temperance movement and the creation of parks and libraries during Prohibition, and he examined the legislative history of the Federal Indian Gaming and Regulatory Act. Joe Kane, a student at Roger Williams College, researched the different ways municipalities across the country regulate fraternity and sorority houses, and Marist College student Tom Dolfi explored the history of Prohibition in the Capital Region.

Recent Publications

Medical Marijuana Meeting Zoning: Can You Grow, Sell, and Smoke That Here?
by Patricia E. Salkin and Zachary Kansler
Click here to view this article

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Practical Issues in Building Green: Siting, Materials, Water Use, and Retrofitting
by Patricia E. Salkin and Amy Lavine

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Urban Renewal and the Story of Berman v Parker
by Amy Lavine

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Urban Redevelopment Policy, Judicial Deference to Unaccountable Agencies, and Reality in Brooklyn’s Atlantic Yards Project
by Amy Lavine and Norman Oder

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Upcoming Presentations

• Patricia Salkin will be making a presentation at the September 20, 2010 Siena College Constitution Day titled "This Land is Not Your Land - This Land is Our Land: Balancing Public and Private Property Rights".

• Aging Baby Boomers, Housing and Other Zoning and Planning Issues will be the topic of Patricia Salkin’s presentation at the Annual Meeting of the New York Planning Federation on September 27, 2010, in Lake Placid, New York.

• On October 2, 2010 the Ethics for Land Use Lawyers and Planners Session at the ABA State and Local Government Law Section Fall Meeting will be led by Patricia Salkin and will take place in Providence, RI.

• Patricia Salkin will present the keynote address on Public Corruption 101 for Land use and Planning Professionals: A National Perspective at the Fourth Annual Ethics Seminar, convened by the Palm Beach County

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To keep up-to-date on all upcoming events hosted or co-sponsored by the Government Law Center, check in with us at our webpage: www.albanylaw.edu/glc. Feel free to contact us at any time by calling (518) 445-2329 or emailing krose@albanylaw.edu. Thanks, as always, to our readers!