Crawford Lecture to Examine Use of Eminent Domain by Municipalities in the Aftermath of Kelo

The consequences to local government of this summer’s Supreme Court decision in Kelo v. City of New London will be the focus of the 2005 Edwin L. Crawford Memorial Lecture on Municipal Law. “Eminent Domain in the Aftermath of Kelo” will take place from 3-5 p.m. on November 1st at Albany Law School.

On June 23, 2005, the U.S. Supreme Court handed down a long-awaited decision in the controversial Connecticut eminent domain case that challenged the constitutional authority of state and local governments to exercise the power of eminent domain for economic development purposes absent a finding of blight. In affirming a March 2004 decision of the Connecticut Supreme Court, the U.S. Supreme Court in a 5-4 decision in Kelo v. City of New London, confirmed that the goal of economic development can be a valid “public purpose” to justify the use of eminent domain under the Fifth Amendment. In reaching this conclusion, the Court relied on its precedent in Berman v. Parker and Midkiff v. Hawaii Housing Authority, noting that the phrase “public use” cannot be defined rigidly, and expressed deference to the decision of legislative bodies in making these determinations.

This case has garnered unprecedented attention. More than two dozen amicus curiae briefs were submitted to the Supreme Court from high profile organizations, individuals and academics. Immediately following the decision, national media campaigns both berating the Supreme Court’s decision and explaining how the decision did not in fact change the law at all, were launched by various interest groups. Members of Congress, along with governors and legislators in more than a dozen states (including New York) have introduced various constitutional and legislative proposals to curtail the power of state and local governments to exercise the use of eminent domain.

The Crawford Lecture will examine the implications of the Supreme Court decision with respect to use of eminent in New York and in states and localities across the country.

Robert H. Freilich, Esq., AICP, Special Land Use Counsel in the national and international law firm of Paul, Hastings, Janofsky & Walker LLP will be the main speaker at this year’s event. Professor Freilich is working at the forefront of comprehensive and growth management planning, redevelopment, annexation and regional service provision, zoning, public/private joint development, land use and taking litigation. During his distinguished career, Dr. Freilich has developed and implemented land use plans and systems for over 250 cities, counties and states from San Diego to Boston, and Seattle/Tacoma to the Florida Keys. Dr. Freilich is the National Editor of The Urban Lawyer, the national quarterly journal on state and local government of the American Bar Association; Director of the Annual Planning and Zoning Institute of the American Center For National and International Law; Past-Chair of the Planning and Law Division of the American Planning Association; serves on the Advisory Board of the Land Use and Environment Law Review; and is a member of the American Institute of Certified Planners and the Urban Land Institute. Dr. Freilich is the author of one of the amicus curiae briefs submitted to the U.S. Supreme Court in the Kelo case on behalf of the City of New London.

The main presentation will be followed by a panel discussion featuring David E. Cardwell, Esq. of The Cardwell Law Firm in Orlando, Florida, whose practice focuses on redevelopment law, and GLC Advisory Board member Carl Rosenbloom, Esq. ’63 of Bond, Schoeneck & King. Continuing Legal Education credits will be available to attendees.

Past Crawford lecturers included A. Kevin Crawford, Esq., Counsel to the Association of Towns of the State of New York; Professor David L. Callies, University of Hawaii’s Richardson School of Law; Professor Jerold S. Kayden of the Harvard Graduate School of Design; Dwight H. Merriam, Esq. of Robinson & Cole, LLP; Mayor William A. Johnson Jr. of the City of Rochester; former NYS Comptroller H. Carl Woodworth; and former NYS Comptroller H. Carl McCall.

The 2005 Crawford Memorial Lecture on Municipal Law is made possible through the generous support of many friends and colleagues of Ed Crawford as well as Saratoga Associates, the New York Municipal Insurance Reciprocal, the New York Conference of Mayors, the New York State Association of Counties, and the Association of Towns of the State of New York. To RSVP for the upcoming program, contact the GLC (518/445-3259).
GLC Calendar of Events

Fall 2005

September 9
Invitational Colloquium Series on Water Law — Stakeholders Roundtable
11 a.m.-3 p.m.
Albany Law School

September 20
Lecture - Balance of Power Between the Executive and Legislative Branches in NYS Government
featuring: Hon. John T. Buckley ’61
panelists: Hon. Stewart F. Hancock, Jr., Hon. Bernard T. Malone ’72 & Professor Michael J. Hutter
3-5 p.m.
Albany Law School

September 21
Student Program — Careers in the Executive and Legislative Branches of Government
12 noon
Albany Law School

October 18
Government Law Networking
Breakfast featuring: Hon. Daniel D. Hogan, OGS Commissioner
10 a.m.
Albany Law School

October 22
Senior Citizens’ Law Day & Nancy M. Sills ’76 Memorial Lecture, featuring Prof. Harold Dubroff
9 a.m.-5 p.m.
Albany Law School

October 26
Student Program — Careers in Local Government
12 noon
Albany Law School

November 1
Edwin L. Crawford Lecture on Municipal Law
featuring: Robert H. Freilich, Esq, panelists: David Cardwell, Esq. & Carl Rosenbloom, Esq. ’63
3-5 p.m.
Albany Law School

November 10
Sandman Fellowship Invitational Roundtable Discussion
Albany Law School

Environmental Justice Training Workshops
Nov. 30 (Chicago)
Dec. 8 (Albany)
Jan. 11 (San Francisco)

From the Director

Fall represents new beginnings at academic institutions: new students, the start of classes and a time to launch new initiatives. The GLC, with the assistance of many members of our Advisory Board and the support of Dean Guernsey and the rest of the Law School community, is pleased to announce a number of exciting new programs. While the details of many of these events are contained within the pages of this newsletter, what follows are some highlights.

Thanks to Senior Staff Attorney Justina Cintrón Perino, the GLC has launched a new website that is designed to serve as a free clearinghouse of information, studies and reports published by or authored by the GLC, members of our staff, and Albany Law School faculty and students. This site already contains a wealth of information and more content is expected to be added monthly through the end of the year. As the clearinghouse expands, we anticipate that it will be bookmarked as a favorite site for legislative and agency staff who need information on a host of law and policy issues.

The Center continues to nurture its environmental and land use programs. In partnership with the Water Resources Institute at Cornell University and Pace Law School, the GLC will host two of three statewide programs on water law and policy during the fall semester. Our Post-Graduate Fellow, Michael Donohue, and Professor Joan Leary Matthews have been instrumental in this endeavor. Through an effort spearheaded by the National Academy for Public Administration, the GLC is co-sponsoring three national training workshops on the intersection of environmental justice and local land use planning. The workshops will take place at the American Planning Association headquarters in Chicago, Hastings College of Law in San Francisco, and Albany Law School. GLC Assistant Director Barbara Mabel and ALS student Natasha Phillup have been working tirelessly on the program logistics. In November, the annual Crawford Lecture on Municipal Law will focus on the recent decision by the U.S. Supreme Court on eminent domain, and will feature prominent state and national speakers who will address the aftermath of Kelo.

In the area of state and local government reform, the GLC is hosting a special symposium with the Albany Law Review and the Alumni in Government Group on the state constitutional history of the balance of power between the executive and legislative branches of government. The Hon. John T. Buckley will discuss his recent law review article, and a distinguished panel including the Hon. Stewart Hancock, Jr., the Hon. Bernard T. Malone and Professor Michael J. Hutter will offer additional insights into this issue. The GLC has also been selected by the City of Albany Charter Review Commission to provide legal/policy research to assist the Commission in its work over the next year. The GLC continues its interest in the area of procurement law, lobbying law and public authority reform with a number of new initiatives, and with the publication of proceedings from our successful spring conferences.

Bennett Liebman, Coordinator of the Racing & Gaming Law Program, organized another fabulous Saratoga Institute in August, setting a new record attendance and earning high praise from all who attended. Our program website is attracting increased traffic, and the program is busy at work on a report on a new pari-mutuel statute for New York.

The GLC looks forward to continuing our commitment to training the public sector workforce this fall as we actively work with the Office of Children and Family Services and the New York State Department of Education on a variety of legal training initiatives. New programs are also planned for members of the Government Law Network. If you are not yet a Network member, please consider showing your support for the work of the Center by joining for a annual membership fee. We hope to see you throughout the fall and, as always, we welcome your comments and suggestions.

Patricia E. Salkin

GLC NEWSLETTER

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Visit the GLC on-line at http://glc.als.edu
GLC Launches New Online Publications Clearinghouse

The Government Law Center is pleased to announce a new electronic clearinghouse—Government Law Online—designed to showcase a collection of articles, studies, papers, reports, and proceedings written by GLC staff and faculty as well as students at Albany Law School. The initial postings of publications are currently available to download at www.governmentlaw.org.

The publications cover an extensive group of law and policy issues, including land use and zoning, environmental law, racing and gaming, aging law, municipal law, administrative law, government ethics, police oversight, science and technology, constitutional law, labor law, energy law and health law.

To provide a broad range of topics, ALS students as well as faculty and attorneys on staff have contributed articles to the collection. Members of the GLC Advisory Board have provided editorial assistance for student submissions.

More than 100 articles are currently available on the new site. Additional papers will be added on a regular basis. The site includes an easy-to-use index arranged by subject matter. Ongoing enhancements will be made throughout the year.

Government Law Online is administered by the Government Law Center. Comments and inquiries can be directed to Justina Cintrón Perino, Senior Staff Attorney, at 518/445-3238 or jcint@mail.als.edu.

Hon. John T. Buckley ’61 to Speak on Balance of Power at Albany Law School

The Honorable John T. Buckley ’61, Presiding Justice of the First Department, Appellate Division in Manhattan, will speak at Albany Law School at 3:5 p.m. on September 20 in Room 200. The discussion, “Balance of Power Between the Executive and Legislative Branches in New York State Government,” is based on Justice Buckley’s master’s thesis and an article just published by the Albany Law Review: His article, “The Governor—from Figurehead to Prime Minister: A Historical Study of the New York State Constitution and the Shift of Basic Power to the Chief Executive,” is an informative and thoughtful look at the evolution of New York State government.

Former Court of Appeals Judge Stewart F. Hancock, Jr., Albany County Supreme Court Justice Bernard J. Malone Jr. ’72, and Professor Michael J. Hutter of Albany Law School will respond to Judge Buckley’s presentation.

Judge Buckley was designated Presiding Justice of the First Department in 2003, having served as Associate Justice since 1999. His judicial experience also includes serving as Supreme Court Justice and Oneida County Court Judge. Judge Buckley was a Member of the New York State Assembly from 1967-1972. He previously practiced law in Utica, New York, for eighteen years. Judge Buckley received a Master of Laws in the Judicial Process from the University of Virginia School of Law Graduate Program for Judges (2004); a J.D. degree from Albany Law School (1961); and a B.S. degree from Georgetown University (1958).

The presentation by Judge Buckley is being co-hosted by the GLC, Albany Law Review, the Alumni in Government Group, and the State Academy for Public Administration. For more information, contact the GLC (518/445-3259).

Clarence D. Rappleyea Appointed Government Lawyer in Residence at the GLC

Clarence D. Rappleyea, former New York State Assembly minority leader, has been named the newest Government Lawyer in Residence by the Government Law Center. He will serve as Albany Law School’s first Clarence D. Rappleyea Government Lawyer in Residence, a program established this year, in his honor, through an endowed fund. Mr. Rappleyea joins Hon. James P. King and Robert C. Batson, Esq., who will continue their residency for an additional year.

The Government Lawyer in Residence Program is an innovative program that brings experienced government lawyers to the School, where they may conduct specialized research or publish a paper related to government or public policy while sharing their expertise, experience, and insights with students, faculty, and alumni at a variety of special programs.

Mr. Rappleyea is chairman and chief executive officer of Rappleyea Public Affairs Group, LLC. Prior to joining the group, Mr. Rappleyea served as a member of the New York State Assembly for more than 22 years and was minority leader of the state assembly for 13 of those years. He was appointed by Governor Pataki to serve as chairman and chief executive officer of the New York Power Authority, the nation’s largest state-owned electric utility, in 1995 and retired from that position in January 2001. Mr. Rappleyea is a graduate of the State University of New York at Albany and Cornell University School of Law.

The Government Law Center will hold a reception to welcome Clarence Rappleyea on Friday, September 26 at 4 p.m. Call the Government Law Center (518/445-2329) for more information.
Saratoga Institute Is A Favorite
For Fifth Straight Year

The Government Law Center hosted the Fifth Annual Saratoga Racing and Gaming Institute on August 2, 2005 at the Gideon Putnam Hotel in Saratoga Springs, New York. Held during the Saratoga racing season, the forum attracted a record attendance of more than 175 racing and gaming enthusiasts from across the country. The annual forum is hosted by the GLC’s Racing and Gaming Law Program, and is distinguished by its pacesetting exploration of the legal and public policy implications of racing and gaming in New York State and the nation.


The highlight of the Institute may have been the State of the Franchise panel. Federal Monitor Neil Getnick praised NYRA for its efforts to improve its business practices and its integrity. Getnick found that NYRA had emerged as “an industry leader.”

Tim Smith, President and CEO of Friends of New York Racing, Inc., gave the luncheon address at the program. His not-for-profit organization, created by a group of prominent horseracing, breeding and business leaders concerned about the future of the State’s Thoroughbred racing industry, is working on the development of a new business model and improved structure for New York. Mr. Smith previously served as Commissioner and CEO of the National Thoroughbred Racing Association, Deputy Commissioner and Chief Operating Officer of the PGA Tour, and co-founder of the consulting firm International Sports and Entertainment Strategies, where he was the principal author of the marketing plan for the 1996 Olympic Games in Atlanta. Prior to his career in sports, Mr. Smith worked in government, including the White House staff in the Carter administration and later the U.S. Department of Justice.

Other speakers were Greg Avioli, Esq., National Thoroughbred Racing Association; Jon Baumgarten, Esq., Proskauer Rose LLP; Jerry Bilinski, DVM, former Chairman, New York State Racing and Wagering Board; Hon. Cheryl Buley, Commissioner, New York State Racing and Wagering Board; Raymond V. Casey, Esq., New York City Off-Track Betting Corporation; Frank Catania, Esq., Catania Consulting Group; Steven Crist, Daily Racing Form; Paul Estok, Esq., Harness Tracks of America; Alan Foreman, Esq., Thoroughbred Horsemen’s Association; Jeffrey R. Gural, Newmark & Co.; William M. Hart, Esq., Proskauer Rose LLP; Charles Hayward, New York Racing Association; John Hindman, Television Game Network; Hon. Michael Hoblock, Chairman, New York State Racing and Wagering Board; Joe Lynch, New York State Racing and Wagering Board; James Maney, New York Council on Problem Gambling; Edward Martin, Association of Racing Commissioners, Inc.; James McAlpine, Magna Entertainment; Jon McCloskey, New York State Senate; Cornelius Murray, Esq., O’Connell and Aronowitz; David O’Reilly, Betfair; Clinton Pitts, former Jockey Club Steward; Dick Powell, Racing Consultant; and Maury Wolff, Racing Economist.

For information about the GLC’s Racing and Gaming Law Program, contact Bennett Liebman, Esq. (518/445-3263).

Congressman Sweeney Honored at Second Annual Saratoga Benefit

Representative John E. Sweeney was honored at the second annual reception to benefit the GLC’s Racing and Gaming Law Program at the Reading Room in Saratoga Springs on August 17, 2005. Representative Sweeney was acknowledged for his national leadership on racing and gaming law, including his service as co-chair of the Congressional Horse Caucus, a bipartisan group formed to educate members of Congress about the importance of the horse industry in the economic, agricultural, sporting, gaming and recreational life of the nation.

Mary Ann McGinn, Esq., ’83, Co-Chair of the Racing & Gaming Law Program Committee, chaired the event. Program Hosts were Betty and John Hettinger, New York Thoroughbred Horseman’s Association; Plug Power Inc., Saratoga Gaming & Raceway, and Shanley, Sweeney, Reilly and Allen, P.C.. Sponsors were Jerry Bilinski, DVM; Crane & Vacco, LLC; Edwin Donnelly; James D. Featherstonhaugh ’69; Mr. And Mrs. Gregory Finger, Jeffrey Gural, E. Stewart Jones, Jr. ’66, William C. McLennan, Jr. ’37; Esther & Morris Massry, Mary Ann McGinn ’83, National Thoroughbred Racing Association, Mr. & Mrs. Frank J. Nigro III; Suzie O’Cain & C. Lynnwood O’Cain, DVM; E. Guy Roemer ’72; Lyn and Michael Shanley ’71; Tim Smith/Friends of New York Racing; Miss Beverly Steinman; Nan Weiner and Dale M. Thuillez ’72; Tioga Downs Racetrack, LLC; TVG; and Daniel Van Cleef, Jr. Friends were Larry H. Becker; Gary Contessa; Lewis Golub; Michael J. Hoblock, Jr.; Jackson W. Knowlton; Herbert Moelis; John C. Oxley; Gino J. Pazzaglini; Jonathan Thorne; F. Michael Tucker; and Stephen Zorn.

Event proceeds benefit the Racing and Gaming Law Program at the Government Law Center of Albany Law School, created to examine the latest law trends and developments in policy and industry matters concerning racing and gaming in New York State and the country. Senate Majority Leader Joseph Bruno was recognized at the inaugural reception in 2004 for his contributions and positive impact on the economic development of the State’s racing industry.
OGS Commissioner Daniel D. Hogan To Be Featured Guest at Networking Event

Hon. Daniel D. Hogan, Commissioner of the New York State Office of General Services in December 2004, and confirmed by the Senate on March 8, 2005. Mr. Hogan began his 20-year career in public service in 1985 as a Legislative Aide to State Senator John B. Daly and has served in a variety of positions, including: Communications Specialist for the Joint Legislative Commission on Toxic Substances and Hazardous Wastes; Communications Manager for Senator Daly and the Joint Commission; and Deputation Executive for Albany County. Mr. Hogan has served as: Director of Public Information at the former Department of Social Services; Executive Deputy Commissioner of the New York State Office for Temporary and Disability Assistance; Senior Policy Advisor and Acting Chief of Staff for Lt. Governor Mary O. Donohue; and Governor Pataki’s Director for Special Projects. Prior to his appointment with OGS, Mr Hogan served as the Director of the Governor’s Office of Regulatory Reform.

Past Government Law Networking Breakfast participants have included William M. Flynn, Esq., Chairman of the NYS Public Service Commission; NYS Assemblyman Kevin A. Cahill ‘80; Maureen Helmer, former Director of the NYS Public Service Commission; Michael Hoblock, Commissioner of the NYS Racing and Wagering Commission; former NYS Comptroller H. Carl McCall; James Natoli, Director of State Operations; former Superintendent of the NYS Insurance Department Gregory V. Serio; and Brian Wing, former Commissioner of the NYS Office of Temporary and Disability Assistance.

Contact the GLC (518/445-3259) to register for this program if you are a current member of the Government Law Network, or to request an application if you would like to become a new member.

Water Law and Policy Series On Tap This Season

Three invitational forums examining critical law and policy issues concerning water resources in New York State are scheduled to take place in 2005/06. The first program, a stakeholders roundtable, will be held from 11 a.m.-3 p.m. on September 9, at Albany Law School. An academic symposium will be held on October 22nd at Pace University School of Law. Albany Law School will be the site of the final event, a Legislative forum, in December 2005.

The stakeholders roundtable will solicit the views, needs and suggestions of an invited group of local community leaders, representatives of state and federal agencies and legal experts. The results of the initial program will provide the basis for the academic symposium. Information gathered during the first two events will be presented at the Legislative forum.

The Water Law & Policy Series will examine a number of complex issues associated with the supply and management of water, a resource vital to the health of citizens and critical for the state economy. Development and increasing demands on water are causing local or regional water imbalances and deficits. Pollution has created water shortages and impaired water uses. Certain land uses can heighten damaging floods and impact water quality in other ways. Responses at the local level to these costly issues require understanding and applying applicable federal, state and local laws. Achieving a balance between federal, state and local laws and regulations is not simple. In New York’s strong home-rule environment, voluntary local initiatives are preferable to imposed top-down police powers. It is also essential to develop a sound economic basis for local decisions and actions, and to avoid unfounded mandates.

The three-part program will examine tools used by municipalities to efficiently and effectively manage and protect the quantity and quality of water resources. These include comprehensive planning, zoning, subdivision regulations, stream and wetland buffers, watershed-based zoning, and dam removal. These are the first measures in achieving a number of desirable goals such as maintaining drinking water supplies; ensuring sufficient quantity, withdrawals, allocations and inter-basin transfers; meeting drinking water quality standards; protecting the quality of rivers and lakes especially from nonpoint sources; maintaining stream corridors, wetlands, streambeds and streambanks; managing stormwater and land drainage; flood protection; watershed, tributary and estuary restoration or protection; and sustaining viable farms and open space.

The Water Law & Policy Series is being co-hosted by the Government Law Center and the New York State Water Resources Institute, in partnership with Pace University School of Law’s Land Use Law Center and Environmental Law Review, and the State Academy for Public Administration. For more information, contact, Michael Donohue at the GLC (518/472-5849).

Assembly Speaker Silver Delivers Remarks at Luncheon in Manhattan

Hon. Sheldon Silver, Speaker of the New York State Assembly, was the featured guest at The William B. Sanders Law & Public Policy Luncheon Forum at The University Club in New York City on April 14, 2005. Named in honor of Judge William Brownell Sanders—who attended Albany Law School in the 1870s—the program brings together alumni and friends in the New York metropolitan area to interact with prominent government leaders. Speaker Silver spoke about the State budget process, the on-time budget, and the balance of power between the executive and legislative branches on budget matters.

Established in 2003, The Sanders Forum is underwritten by the Cleveland-based law firm of Squire, Sanders & Dempsey LLP in honor of Judge Sanders who was a founding partner at the firm. Prior Forum speakers include: New York State Comptroller Alan G. Hevesi; New York State Attorney General Eliot Spitzer; and Long Island county executives Thomas R. Suozzi and Deputy County Executive Kevin S. Law.
GLC Presents Capital Region’s First Candidate Workshop

The Government Law Center and the Capital District Chapter of the New York League of Conservation Voters hosted the area’s first candidate workshop on August 12 at Albany Law School. The half-day education session, focusing on land use and planning issues, was designed to give candidates the opportunity to meet people from government agencies, and the business and environmental communities, who are experts in areas relevant to future planning in the Capital Region. More than 35 candidates running for public office in the fall attended this non-partisan event.

Program co-sponsors were the Capital District Regional Planning Commission; Community Foundation for the Capital Region, Environmental Advocates of New York, New York Planning Federation, New York State Laborers, and the Open Space Institute.

The program opened with welcoming remarks by GLC Director Patricia Salkin and Marcia Bystryn, Executive Director of the New York League of Conservation Voters. ‘Profile of the Capital Region: Population and Development Trends’ was presented by Rocco A. Ferraro, AICP, Executive Director of the Capital District Regional Planning Commission. John P. Poorman, Director of the Capital District Transportation Committee, and David S. Sampson, Esq., Chair of the Capital District Chapter of the League of Conservation Voters, and with the law firm of Martin, Shudt, Wallace, DiLorenzo & Johnson, discussed “Planning for Growth and Development.” “Intermunicipal Strategies for High-Tech Growth – Empowering Communities” was examined by David M. Rooney, Senior Vice President of the Center for Economic Growth and E. Kristen Frederick, President & CEO of the Community Foundation for the Capital Region. Patricia Salkin talked about “The Community Toolbox: Implementing the Vision.”

The program concluded with a panel discussion, moderated by James Melius, New York State Laborers, on “Technical Assistance and Resources: Program Descriptions/Resources and Q & A.” It featured Barbara “Charlie” Murphy, Director of the Division of Local Government Services, NYS Department of State; Dale Desnoyers, Esq., Director of the Division of Environmental Remediation, NYS Department of Environmental Conservation; Betty Ann Hughes, Chief of SEQR and Training Unit for the Division of Environmental Permits, NYS Department of Environmental Conservation; Ruth Moore, First Deputy Commissioner for the NYS Department of Agriculture & Markets; Kevin Burns, Chief of Grants for the NYS Office of Parks, Recreation & Historic Preservation; and Kevin Millington, Coastal Resources Specialist for the Division of Coastal Resources, NYS Department of State.

For more information, contact the GLC (518/445-2329).

Journal Explores Regulating of Professions by Government Agencies

Issues pertaining to governmental oversight of doctors, lawyers, teachers, architects, engineers, notaries, cosmetologists, and a host of other occupations is the subject of the Summer 2005 issue of the Government, Law & Policy Journal. “Policing the Professions” focuses on the diverse methods used by different state entities that license, certify and discipline certain professions and lines of work.

The contents of this issue include: Discipline of Physicians in New York by Donald P. Berens, Jr.; Policing the Medical Profession in New York State by Elizabeth Dears Kent; On Our Honor: Policing Ourselves in the Legal Profession by David L. Edmunds, Jr.; Hope, Health and Healing by Barbara F. Smith; Licensing and Regulating Professionals Before the NYS Department of State by Bruce Stuart; Representing a Licensed Professional in Administrative Disciplinary Proceedings by Dennis K. Spillane; Professional/Occupational License Litigation by Brian M. Bégue; Addressing Classroom Incivility in Academe by Alan E. Bayer and John M. Braxton; and The Need for Organized Medicine to Police Rogue Expert Witnesses by Russell M. Pelton.

This is the last issue for which Professor Vincent M. Bonventre of Albany Law School served as Editor-in-Chief. We wish to thank Professor Bonventre for his tireless efforts to make the Government, Law and Policy Journal among the most respected and successful Bar Association publications in circulation today. We are grateful that he will continue providing guidance as a member of the Journal’s Editorial Board. Rose Mary Bailly, Esq. is serving as Editor-in-Chief of the Fall 2005 issue of Government, Law and Policy Journal which will examine issues relating to the Office of Counsel to the Governor. Robert Batson, Esq. will serve as the guest editor for the Spring 2006 edition that will address Native American issues.

Members of the Student Editorial Board for the Summer 2005 issue were Dana L. Salazar ’05, Executive Editor; Jessica Blain-Lewis ’05 and Kyle McCauley ’05, Senior Editors; and Brett Knowles ’05 and Abigail Nitka ’05, Editors. Ryan Emery ’06 is the current Executive Editor. Student editors are Andrew Poplinger ’06, Suzanne Post ’06, Joshua Oppenheimer ’06, Jessica Satriano ’06, and Sharalyn Savin ’06.

Government, Law and Policy Journal is produced twice yearly by the GLC and published by the New York State Bar Association’s Committee on Attorneys in Government Service. The magazine is available free of charge to New York State Bar Association members. To get on the mailing list, contact the membership office (518/487-5577 or membership@nysba.org).
GLC Names Two New Post-Graduate Government Law and Policy Fellows

Michael Cassidy ’05 and Michael Donohue ’05 have been selected to participate in the Post-Graduate Fellowship in Government Law and Policy established at ALS in fall 2004. The program, offered by the Government Law Center, provides an opportunity for lawyers to perform research on public policy reform issues, oversee the production of substantive projects, and provide general legal assistance for GLC programs and initiatives.

Michael Cassidy ’05 worked as a contributing editor for the Center for Judicial Process, and as a lead articles editor for the Albany Law Journal of Science and Technology. He was also an intern for the Albany Law School Clinic’s Litigation Project.

Michael Donohue graduated from Albany Law School in May 2005. While a student, he interned with the New York State Department of Environmental Conservation, the New York State Attorney General’s Office and the Government Law Center.

Former Assistant U.S. Attorney William C. Snyder served as the GLC’s first Law and Public Policy Fellow in 2004. The 2005 fellowships have been awarded for a ten-month period beginning in August.

State Leaders Discuss Challenges Faced by New York’s Public Authorities


Participants also included Charles Brecher, Executive Vice President/Director of Research for the Citizens Budget Commission; Patrick J. Bulgaro, Commissioner of the NYS Temporary Commission on Lobbying; and former Director of the Budget for the State of New York; Scott Fein, Esq., of Whiteman, Osterman & Hanna; Walter Kicinski, Managing Director of UBS Financial Services; Brian McMahon, Executive Director of the NYS Economic Development Council; and George Weissman, Associate General Counsel of NYS Dormitory Authority.

The 2005 Sandman Discussion to Address Development of Adequate Workforce to Meet the Rising Need for Quality Long-Term Care

The GLC’s 2005 Edgar and Margaret Sandman Fellows, Stacey Stump ’06 and Francesca Fonte ’06, will host an invitational roundtable discussion, “Meeting the Long-Term Care Workforce Challenges: Options for New York State,” on November 10 at Albany Law School. The forum will bring together representatives from the public, private and non-profit sector who are grappling with the projected increase in the number of frail elderly and disabled requiring long-term care assistance in New York State over the next several decades.

Scheduled for publication in 2006, the report will examine the extent of the labor shortage in both the institutional and home care settings, as well as its consequences on the quality of care received by elders. Nationwide initiatives and proposals to battle this mounting problem will be discussed. The report will provide options for New York and other states to consider in preparing for this crucial need.

Both of the Sandman Fellows are in the Class of 2006 of Albany Law School. Francesca Fonte is from Roselle Park, New Jersey. She is a member of the Environmental Outlook Law Journal. She graduated summa cum laude from St. John’s University in 2001 and received a Bachelor of Science degree in Legal Studies. Upon graduation from college, Francesca maintained a paralegal career up until entering law school in 2003. Stacey Stump is from New Rochelle, New York. Stacey is an Associate Editor of the Environmental Law Outlook Journal. She is a graduate of Hamilton College.

For more information about the roundtable and study, contact Rose Mary Bailly, Esq., at the GLC (518/472-5858).
O
n April 1, 2005, the Government Law Center hosted “Evaluating New York Procurement Law as the Sun Sets: An Analysis of the Experience of the Past Ten Years” at Albany Law School. The program included a discussion of the procurement processes in New York State and the proposed recommendations for changes to the state’s Procurement Stewardship Act, scheduled to sunset this year. (The Act was subsequently extended until June 30, 2006 as part of the legislation enacting the 2005-06 State budget.)

Dean Thomas F. Guernsey and Patricia E. Salkin welcomed the participants to the program which began with presentations by First Deputy Comptroller Tom Sanzillo on “Strengthening State Procurement Practices to Produce the Best Results for New Yorkers” and by Hon. Daniel D. Hogan, Commissioner of the NYS Office of General Services, on “Reauthorization is Supported by the Record.”

Larry C. Ethridge, Esq., Chair of the ABA Model Procurement Code Revision Committee, welcomed the participants to the program which began with presentations by First Deputy Comptroller Tom Sanzillo on “Strengthening State Procurement Practices to Produce the Best Results for New Yorkers” and by Hon. Daniel D. Hogan, Commissioner of the NYS Office of General Services, on “Reauthorization is Supported by the Record.”

Lary C. Etheridge, Esq., Chair of the ABA Model Procurement Code Revision Committee

The GLC plans to continue to focus resources in the area of procurement law and policy given the 2006 sunset provision in the Procurement Stewardship Act and the recently enacted legislation addressing procurement lobbying.

Panelists and moderators were Stephen Acquario, Interim Executive Director of the NYS Association of Counties; Greg Benson, Executive Director of the NYS Forum for Information Resource Management of Rockefeller College; Walter Bikowitz, Director of the Procurement Services Group at the NYS Office of General Services; Honorable RoAnn M. Destito of the NYS Assembly; Hermes Fernandez, Esq., Bond, Schoeneck & King, PLLC; Stephen Frank, Oracle; David Grandau, Esq., Executive Director of the NYS Temporary Commission on Lobbying; Anne G. Phillips, Associate Counsel for the NYS Office of General Services; Richard Reed, Esq., Deputy Commissioner and Counsel for the NYS Office of General Services; Richard Rifkin, Deputy Attorney General for the Office of the NYS Attorney General; Saul Seinberg, Esq., Director of Albany Law School’s Science & Technology Law Center; Marla Simpson, Director of the NYS Mayor’s Office of Contract Services; Walter Bikowitz, Director of the Procurement Services Group at the NYS Office of General Services; Honorable RoAnn M. Destito of the NYS Assembly; Hermes Fernandez, Esq., Bond, Schoeneck & King, PLLC; Stephen Frank, Oracle; David Grandau, Esq., Executive Director of the NYS Temporary Commission on Lobbying; Anne G. Phillips, Associate Counsel for the NYS Office of General Services; Richard Reed, Esq., Deputy Commissioner and Counsel for the NYS Office of General Services; Richard Rifkin, Deputy Attorney General for the Office of the NYS Attorney General; Saul Seinberg, Esq., Director of Albany Law School’s Science & Technology Law Center; Marla Simpson, Director of the NYS Mayor’s Office of Contract Services; Susan Corbett Zeronda, Esq., Deputy Director for Strategic Policies in Acquisitions & E-Commerce at the NYS Office for Technology.

Deputy Comptroller Tom Sanzillo on “Strengthening State Procurement Practices to Produce the Best Results for New Yorkers” and by Hon. Daniel D. Hogan, Commissioner of the NYS Office of General Services, on “Reauthorization is Supported by the Record.”

First Deputy Comptroller Tom Sanzillo and Hon. Daniel D. Hogan, Commissioner of the NYS Office of General Services

Marla Simpson, Director of the NYC Mayor’s Office of Contract Services, Susan Corbett Zeronda, Esq., Deputy Director for Strategic Policies in Acquisitions and E-Commerce at the NYS Office for Technology and Saul Seinberg, Esq., Director of ALS’s Science & Technology Law Center
New “Alumni Talk” Series To Include Discussion of State and Local Government Careers

Two eye-opening programs will be in place this fall for students investigating public sector careers. The annual “Careers in Government” and “Careers in the Legislature” programs have been combined into one comprehensive session on New York State employment. A new panel, focusing on career opportunities in local government, has also been added. “Careers in the Executive and Legislative Branches of State Government” is scheduled for noon on September 21 in Career Planning. “Careers in Local Government” will be held on October 26 at noon in Career Planning.

Part of the new “Alumni Talk” series implemented this year at Albany Law School, the panel presentations are being co-hosted by the GLC, Career Planning, and the Alumni Office. ALS alumni, employed in a variety of government positions, will provide students with practical, behind the scenes, information on day to day tasks, pros and cons of public sector employment, salary, and quality of life issues. Panelists will also share their own personal stories, and provide “nuts and bolts” advice on, and practical strategies for, obtaining the perfect government job.

Students exploring different career options, and interested in making contact with alumni working in the public sector, are invited to participate in these candid and useful discussions.

For more information about the Careers in Government programs, contact Joanne Casey in Career Planning (518/472-5875 or jcase@mail.als.edu).

Professor Harold Dubroff To Deliver Nancy M. Sills Memorial Lecture at Senior Citizens’ Law Day

Professor Harold Dubroff, Director of Albany Law School’s Low Income Tax Payer Law Project, will deliver the third annual Nancy M. Sills ’76 Memorial Lecture on “What to Do If the IRS Audits Your Return” at The 2005 Senior Citizens’ Law Day. This marks the twelfth year that the Government Law Center will host the day of seminars devoted to aging issues for members of the Capital Region community. The free educational event will take place from 8 a.m. to 4 p.m. on Saturday, October 22nd, at Albany Law School.

Approximately forty workshops will be offered to seniors as well as to younger members of the community who are helping their parents deal with many issues that often come with age. Topics will include: future planning for small estates, trusts, financial benefits of charitable giving, health care proxies, living wills, wills, talking with parents about future care, communicating effectively with health care professionals, privacy laws, aging awareness, Medicare issues including the new prescription drug law, long-term care insurance, Medicaid, mental health issues, Alzheimer’s signs and expectations, caregivers issues, guardianship, proactive planning for adult disabled children, securities fraud, identity theft, telemarketing scams, maintaining safe driving skills, elder gambling, how to choose an elder law attorney, organizing financial records, pre-funeral planning, Probate & Surrogate’s Court, and resources for grandparents caring for their grandchildren.

The Nancy M. Sills ’76 Memorial Lecture was established two years ago at Senior Citizens’ Law Day; and has become an integral part of the annual event. Nancy Sills was an alumna of Albany Law School who tirelessly shared her time and knowledge at Law Day for many years. The lecture was created as a tribute to her memory through a generous gift from her husband, Dr. Stephen Sills. Past Sills Lecture presenters were Hon. Mary O. Donohue, Lieutenant Governor of the State of New York, and Hon. Neal E. Lane, Acting Director of the New York State Office for the Aging.

Sponsors to date, are Citizens Bank, Times Union, Albany County, State of New York Unified Court System Office of Court Administration, NYS Office for the Aging, NYS Senator Neil Breslin, State Academy of Public Administration, City of Albany, NYSBA-Elder Law Section, Crestwood Pharmacy, Senior Services of Albany, Bella Napoli, Dunkin’ Donuts, Hannaford, and Price Chopper.

For more information about Senior Citizens’ Law Day and The Nancy M. Sills ’76 Memorial Lecture, contact Ginny Battige at 518/445-3287.
Andrew Seminar Series Continues Success

Hundreds of NYS legislators, government officials, attorneys, and representatives from the business and non-profit community attended The 2005 Warren M. Anderson Legislative Breakfast Seminar Series. Held from February through May of this year, the monthly programs featured discussions on issues at the top of the Legislature’s agenda: charter schools, CFE litigation, lobbying law reform, and energy infrastructure.

Participants included: Gary Brown, Vice President for Strategic Development, New York Independent System Operator; Michael Calviou, Vice President of Transmission Regulation and Commercial, National Grid USA; Bartley J. Costello III, Esq., Hinman Straub Pigors & Manning, PC; Edwin Darden, Director of the Center for Urban Schools Program, NYS School Boards Association; James D. Featherstonhaugh, Esq., Featherstonhaugh, Wiley, Clyne & Cordo, L.L.P.; Douglas Gerhardt, Esq., NYS Council of School Superintendents; David M. Grandeau, Executive Director, New York Temporary State Commission on Lobbying; Donald J. Jacobs, Ph.D., Founder and Director of the Education Innovation Consortium, University of Buffalo’s Center for Applied Technologies in Education; Daniel Kinley, Executive Director, NYS Commission on Education Reform; David J. Manning, Senior Vice President of Corporate Affairs, KeySpan; James D. Merriman, Executive Director of the Charter Schools Institute, State University of New York; Michael Rebell, Executive Director, Campaign for Fiscal Equity; Charles J. Santelli, Director of Policy and Program Development, New York State United Teachers; Howard Shapiro, Esq., President and Chief Operating Officer, The Energy Association of New York State; and Jay Worona, Esq., NYS School Boards Association.

Honorary Co-hosts were Senate Majority Leader Joseph Bruno, Assembly Speaker Sheldon Silver, Senator David Paterson and Assemblyman Charles Nesbitt.

The 2005 Anderson Series was sponsored by The Civil Service Employees Association; Energy Association of New York State; Girvin & Ferlazzo P.C.; Hinman, Howard & Kattell; Hinman Straub Pigors & Manning PC; Meyer, Suozzi, English & Klein, P.C.; New York State United Teachers; Pryor Cashman Sherman & Flynn LLP; Whiteman, Osternan & Hanna; Wilson, Elser, Moskowitz, Edelman & Dicker.

The program is named in honor of Albany Law School Alumnus Senator Warren M. Anderson who served in the New York State Senate for 35 years, and is perhaps best known for his leadership during his tenure as President Pro Tem and Majority Leader from 1973-1988.

Contact Sharmaine Moseley (518/445-3257) to get on the mailing list to receive information about The 2006 Warren M. Anderson Legislative Breakfast Seminar Series.

Report Analyzes Financial Option for Relatives Caring for Family Members’ Children

The Government Law Center published a new report in spring 2005 through its Aging Law & Policy Program. Subsidized Guardianship as a Kinship Care Option was written by Janet Kealy ’03 who served as an Edgar & Margaret Sandman Fellow at the GLC.

The report examines subsidized guardianship, a relatively new and rapidly evolving permanency option that is being offered by many states. This policy seeks to provide a legal framework and financial assistance to children being raised by non-parental care givers, who are usually extended family members. Subsidized guardianship is a policy that does not terminate parental rights, yet provides a permanent living arrangement for children, and provides financial assistance, and often supplemental social services or support services.

The report analyzes the various subsidized guardian type programs used by states, and examines the different funding models currently being implemented across the county. It provides guidance to law and policy makers who are reviewing options for providing children, being cared for by their relatives, with the support needed to create more permanent and stable homes.

View or download the newly published report, Subsidized Guardianship as a Kinship Care Option, in PDF format at www.governmentlaw.org For more information, contact Rose Mary Bailly at the GLC at 518/472-5858.

**Justina Cintrón Perino**, was promoted to Senior Staff Attorney at the Government Law Center in July 2005.

An article by [Bennett Liebman](/), about the Court of Appeals decision in *Dalton v. Pataki* on gambling expansion was published in the August 2005 issue of the *Gaming Law Review*.

At the January 2005 Annual Meeting of the New York State Bar Association, **Patricia Salkin** was elected Second Vice-Chair of the Municipal Law Section. She was also re-appointed to Chair the American Planning Association's Amicus Curiae Committee by APA President David Siegel. She has been appointed to the American Bar Association's House of Delegates to represent the State and Local Government Law Section and she has also been appointed to the ABA Nominating Committee.

**Justina Cintrón Perino** has been re-elected as editor of State & Local News, the quarterly newsletter of the American Bar Association's State and Local Government Law Section. In the spring of 2005, she was elected to serve as the Chairperson-Elect of the New York State Bar Association's Young Lawyers Section.

**Patricia Salkin** presented a paper entitled "GIS in an Age of Homeland Security: Accessing (Public) information to Ensure a Sustainable Environment," at the William & Mary School of Law’s February 2005 Environmental Law and Policy Review Symposium on Global Terrorism and its Impact on Sustainable Development: Exploring Linkages Between Sustainable Development, Security and Terrorism. She also presented a paper: "Ethical Considerations for Town Attorneys," at the Annual Meeting of the New York State Association of Towns in New York City in February 2005. ALS's Institute of Legal Studies, once again, accredited the CLE program held as part of the event.

In April, **Patricia Salkin** presented a paper "Sustainability at the Edge: The Opportunity and Responsibility of Local Governments to Most Effectively Plan for Natural Disaster Mitigation" at Pace University School of Law, which will be published in a forthcoming book from the Environmental Law Institute. She keynoted the Spring Professional Development Workshop of the Northern New England Chapter of the American Planning Association in Concord, New Hampshire where she also presented on the subject of planning law ethics.

**Justina Cintrón Perino** is editor of Citizen Oversight of Law Enforcement: Legal Issues and Policy Considerations a forthcoming book from the American Bar Association. The book features thirteen chapters authored by some of the most prominent practitioners in the field and a comprehensive appendix, is a must read for municipal attorneys working in and around these cutting-edge legal issues.

**Judge Howard A. Levine**, formerly of the New York Court of Appeals and currently the Justice Robert H. Jackson Distinguished Professor at Albany Law School, was the featured speaker at a training program on rulemaking which took place at the law school in March 2005. Co-hosted by the Government Law Center, New York State Department of State, and Governor's Office of Regulatory Reform, participants included counsel and policy staff from scores of state agencies.

The GLC partnered with the New York Farm Bureau, Inc. and the New York State Bar Association to present "Agricultural Law and Your Community" on May 10, 2005 at Longfellow's Inn and Restaurant in Saratoga Springs, at which **Patricia Salkin** presented a session on land use ethics.

**Patricia Salkin** served as moderator for a June national Audio/Web Conference sponsored by the American Institute of Certified Planners on current issues in Planning, Environmental and Land-Use Law.

**Patricia Salkin** and GLC Advisory Board member [Jill Dunn](/), are co-chairing a new task force for the Capital District Women's Bar Association on Women in Government.

In June, the GLC was selected by the Village and Town of Athens to participate as part of a group that will prepare their comprehensive plan and zoning update. Earlier this year, the GLC performed zoning code reviews for the Town of Fleming, Town of Amherst, and City of Cohoes.

The GLC, in cooperation with the Institute of Legal Studies, presented a series of training programs this summer in Albany and Syracuse under a contract with the NYS Office of Children & Family Services on topics such as technology issues for agency attorneys, ethics, and due process. [Saul Seinberg, Esq.](/), Director of the ALS Science & Technology Law Center coordinated and presented at the technology program.

The GLC is collaborating with the New York State Energy Research and Development Authority (NYSERDA) on a project that will examine planning and zoning laws in relation to the siting of wind farms in New York State.

On August 16, the GLC and the Science and Technology Law Center co-hosted a welcoming reception for students in the incoming class as part of Albany Law School's 2005 orientation activities. The new students enjoyed lunch while learning about the many opportunities available through the academic centers.

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The Albany Law School Board of Trustees appointed the following new Advisory Board members to the GLC: [Stephen J. Acquario, Esq.](/), Executive Director of the New York State Association of Counties; [A. Kevin Crawford, Esq.](/), General Counsel to the Association of Towns of the State of New York; [Donna Giliberto, Esq.](/), General Counsel to the New York State Conference of Mayors and Municipal Officials; [Molly McKewyn](/), Founder of Higher Education Growth Strategies; [Paul D. Moore](/), formerly of the Office of the New York State Comptroller; [Frank Munoz, Esq.](/), Assistant Commissioner and Executive Director of the Office of Professional Responsibility at the NYS Education Department. Office of the Professions; [Clarence D. "Rapp" Rappleyea, Esq.](/), Chairman and Chief Executive Officer of Rappleyea Public Affairs Group; [Howard Shapiro, Esq.](/), President and Chief Executive Officer of the Energy Association of New York State; and [Molly Wilkinson, Esq.](/), former Director of Legislative Affairs and Strategic Planning for the Project & Contracting Office at the U.S. Department of Defense.

Two GLC Advisory Board members will be honored on September 30th at the Albany Law School Annual Barristers Ball. [Matthew Matarasso ’08](/), will receive the Trustees Gold Medal Award and [Molly Wilkinson ’06](/), will receive the Outstanding Young Alumni Award.

Former Appellate Division Presiding Judge [Leonard A. Weiss](/), was the recipient of the "Distinguished Alumni in Government" award at the annual Alumni in Government Reception held at the Executive Mansion this past fall. The event is co-hosted by the Government Law Center and the Alumni in Government Group which is chaired by Government Lawyer in Residence [Robert C. Batson, Esq.](/)

The following ALS students worked on GLC initiatives during the summer of 2005: [Willow Baer ’07](/); [Jeffrey J. Barringer ’07](/); [Elizabeth Bell ’06](/); [Ryan Callahan ’07](/); [Yaron Deskalot ’07](/); [Aaron Edwards ’06](/); [Margaret Lavery ’07](/); [Matthew Leonardo ’07](/); [Natasha Phillip ’06](/); [Charis Torok ’07](/); and [Brittany Young ’06](/). The Institute of Legal Studies received help from [Susan Siwek ’06](/); [Ken Wang ’06](/). 2005 Siena Fellows [Joseph Cirillo](/), [Cecilia Faleski](/), and [Kristen Scanlon](/), examined the following topics during the summer: government attorney-client privilege, siting of wind farms, and environmental justice. Advisory Board member [Dr. Leonard Cutler](/), administers the Siena College pre-law program and was instrumental in arranging the placements at the GLC.

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