State Leaders to Speak at March Public Authority Conference

On March 4, 2005, the Government Law Center will present a one-day symposium entitled, “Assessing the Fourth Branch of Government: The Benefits and Challenges of Public Authorities in New York State.” This program, following a nine-month study at the Government Law Center on the history, benefits and public policy challenges with respect to public authorities in New York, is an important contribution to informing the statewide debate surrounding public authorities. The program, sponsored by the New York State Bar Association’s Committee on Attorneys in Public Service, the New York State Senate, Assembly, and Comptroller, and the Government Law Center, will feature speakers addressing key issues in public authorities.

Featured speakers at the program include Comptroller Alan G. Hevesi; New York State Senator Vincent Leibell; NYS Assemblyman Richard L. Brodsky; New York State Senator Vincent Leibell; Ira Millstein, recently appointed by Governor Pataki to head the New York State Commission on Public Authorities; and Richard Ravitch, former Executive Director of the Port Authority of New York and New Jersey, and former Budget Director for the State of New York. Panel discussions will address, among other things, fiscal implications for the State and for local governments; public-private perspectives; and options for reform. Other sessions include Corporate Governance Reform: Lessons from the Private Sector, Legislative Perspectives, and An Historical Overview of Public Authorities. Confirmed speakers to date include: Charles Brecher, Executive Vice President/Director of Research for the Citizens Budget Commission; Patrick J. Bulgaro, Commissioner, NYS Temporary Commission on Lobbying; and former Director of the Budget for the State of New York; Scott Fein, Esq., Whitman, Osterman & Hanna; Walter Kicinski, Managing Director, UBS Financial Services; Brian McMahon, Executive Director, NYS Economic Development Council; and George Weissman, Associate General Counsel, NYS Dormitory Authority.

Public authorities are corporate entities of the State created by the Legislature. They provide an enormous array of public services from roads, bridges and airports to hospitals, prisons and college campuses, among many others. Although created by the State, public authorities are not subject to Constitutional limits on the incurrence of debt or to the legislative budget approval process that controls expenditures by the legislative, judicial and executive branches of state government. Public authorities are legally and administratively autonomous from the State with each governed by a separate board of directors, generally appointed by the Governor or Legislature. With few exceptions, neither their borrowing nor their spending practices are approved by elected representatives of the people. Thus, because of their legal and administrative autonomy, public authorities are sometimes referred to as “The Fourth Branch of Government.”

Although some public authorities are completely self-supporting, others rely on State grants to fund their operations. It is widely believed that state government has a moral or simply a practical obligation to fund the debt service incurred by the authorities even where it has no contractual obligation to do so, in order to avoid the collapse of an agency providing an essential public service or to avoid a costly reduction in the state’s bond rating. Thus, the future of public authorities is of great consequence to all citizens of New York.

These concerns have generated a wide-ranging and bi-partisan call for reform. The Governor, the Attorney General, the Comptroller, and leadership in both houses of the Legislature have all called for reform, although the various proposals differ widely. On May 11, 2004, Governor Pataki announced the creation of a six member Public Authority Governance Advisory Committee to “suggest additional reforms that will further improve accountability and public oversight of the State’s public authorities.” On June 22, 2004, the committee released a draft interim report noting that: “Reform is a goal of all.”

For more information about the conference, contact the Government Law Center (518/445-2329).
From the Director

As this issue of the newsletter goes to press at the close of the holiday season, it is evident that the GLC has so much to be thankful for. Our Advisory Board, headed by the tireless William Redmond, has collectively invested hundreds of volunteer hours this past year to help the staff plan more than half a dozen exciting new programs for the first half of 2005. Working closely with Albany Law School Vice President Helen Adams Keane, the Government Law Center is thankful to many of our friends who have generously donated financial resources to support the Center. For example, Saratoga Associates has made a generous multi-year commitment to significantly enhance the endowment fund for our annual Crawford Lecture on Municipal Law, and Pauline Williman has made a generous gift to support our Warren M. Anderson Legislative Breakfast Program. Significant individual pledges to support our research work have been made by many people in 2004 including Robert Batson, Kenneth W. Bond, Maureen Harris, and William Redmond. Jerry Bilinski, Mary Ann McGinn, James Towne and Jerry Weiss invested many hours to help the Center attract significant support for our nationally renowned racing and gaming law program, and dozens of friends of Clarence “Rapp” Rappelyea contributed generously to successfully raise funds to endow the Center’s government lawyer in residence program. Thank you also to the individual members of the Government Law Network and the Racing & Gaming Network. It is your annual support that enables us to reach for the cutting edge. Without all of this support, and the support of others too numerous to mention in this short column, the Center simply would not be able to offer the rich array of programs and provide ongoing in-depth research covering diverse and ever-changing subject matter.

The Center is also grateful to our many public partners who continue to value our work product and enable the Center staff and our students to interact with the public sector workforce. Ongoing relationships with the New York State Department of Education, the Office of Children and Family Services, the Department of State, The Office of Court Administration, Albany County and the City of Albany, to name just a few, are examples of the opportunities for which we are grateful. Dozens of law firms, private companies and public sector unions also continue to support the programs and initiatives of the Center through both time and financial commitments. The diverse backgrounds and perspectives of all who participate in each of our programs not only enrich the experience for those involved, but ensure that our work products are thorough, comprehensive, fair and honest.

With so much to be thankful for from a quick look-back at 2004, I eagerly await the programming in 2005 that marks the Center’s most dynamic year yet. As you browse through the upcoming programs and initiatives discussed in this newsletter, please consider joining us for one or more events. As always, feel free to contact us with your ideas for future topics and initiatives. I look forward to seeing you during 2005 as we continue linking law and public policy.

Patricia E. Salkin

GLC Calendar of Events (Cont’d)

May 5
Symposium: Legislating Stem Cell Research
1-5 p.m.

May 24
Warren Anderson Breakfast Seminar Energy Law and Policy Update
8-9 a.m.
State Capitol, Albany

July 29
Second Annual Saratoga Reception to benefit the Racing & Gaming Law Program
Saratoga Springs, NY

August 2
Fifth Annual Saratoga Racing & Gaming Law Institute
Gideon Putnam Hotel
Saratoga Springs, NY

(Events at Albany Law School unless otherwise noted.)
Procurement Law To Be Examined at GLC Symposium

Key Sections of State’s Procurement Stewardship Act Due to Sunset in 2005

On April 1, 2005, the Government Law Center will present a one-day symposium entitled, “Evaluating New York Procurement Law as the Sun Sets: An Analysis of the Experience of the Past Ten Years.” The State Academy for Public Administration, the New York State Bar Association’s Committee on Attorneys in Public Service, and the New York State Forum for Information Resource Management are co-sponsoring this event.

The Government Law Center is reviewing the state’s procurement law because of the impending expiration in June 2005 of significant portions of the Procurement Stewardship Act. Originally enacted in 1995 with a five-year sunset provision, the Act was reauthorized in 2000 for an additional five years. One chapter of the Act, entitled Preferred Sources, was amended in 2002 to remove the sunset provision. The Legislature did not amend the heart of the Act, entitled Purchasing Services and Commodities, now codified at Section 163 of the State Finance Law, and it will expire on June 30, 2005, unless the Legislature acts before then. Section 163 sets forth the infrastructure governing public procurement, including the methods and processes required for purchasing and contracting commodities, services and technologies. It defines and establishes such key concepts as competitive bidding, best value, responsible offeror, and centralized contracts, among many others.

The Center seeks to examine what has worked well during the ten years of the Act, as well as what experience shows could be improved. Included will be a survey of what some other states do to address similar issues. Proposals to require disclosure of lobbying efforts aimed at procurement decisions will also be addressed. Ultimately, the issue for examination during the symposium will be whether the Procurement Stewardship Act should be reauthorized and, if so, for how long and with what modifications. Comptroller Alan G. Hevesi is a featured keynote speaker. Other confirmed speakers to date include Stephen J. Acquario, Interim Executive Director, NYS Association of Counties; John Adler, National President, National Association of State Procurement Officers; Greg Benson, Executive Director, NYS Forum for Information Resource Management, Rockefeller Institute; Walter Bikowitz, Director, Procurement Services Group, NYSOGS; Hon. RoAnn Destito, NYS Assembly; Robert J. Fleury, First Deputy Commissioner, NYSOGS; Anne G. Phillips, Associate Counsel, NYSOGS; Richard Reed, Deputy Commissioner & Counsel, NYSOGS; Richard Rifkin, Deputy Attorney General, NYS Office of the Attorney General; Marla Simpson, Director, NYC Mayor’s Office of Contract Services; Karl J. Sleight, Executive Director, NYS Ethics Commission; Ronald Soloway, Managing Director of Government and External Relations, UJA-Federation of New York; and Dan Walsh, President & CEO, The Business Council of New York State. Sessions during the symposium will include: The Model Procurement Act and Procurement Laws in Other States: How New York Compares; Procurement Lobbying Disclosure & Other Ethical Considerations; E-Commerce and Other Innovative Procurement Strategies; A View From the Business Community; Facing the Sunset: Issues in Reauthorization; and National Perspectives on Procurement.

This program is an important contribution to inform the statewide debate surrounding the state’s procurement practices, a debate which will almost certainly result in legislation within the next few months.

For more information, contact the Government Law Center (518/445-2329).

Environmental Outlook Symposium Addresses Sprawl, Emerging Issues and Successful Initiatives

Successful Sprawl Initiatives is the topic of the Third Annual Symposium of the Albany Law Environmental Outlook Journal. The Symposium, co-hosted with the Government Law Center, will be held on March 9, 2005 from 9 a.m. to 5 p.m. at Albany Law School.

Three panels will discuss various topics including civilian encroachment on military bases, big box development, and geographic information systems. J. Langdon Marsh, former Commissioner of the NYS Department of Environmental Conservation, will deliver the keynote address. "The Effects of Sprawl and Civilian Encroachment on Military Bases and Security" will be led by Tara Butler, Esq., an attorney with the National Governor’s Association in Washington, D.C. Dwight Merriam, Esq., of Robinson & Cole, LLP will lead the second panel, “How Big Bog Development Contributes to Sprawl.” Todd Fabbozzi, Esq., of the Capital District Regional Planning Commission will offer a presentation about Geographic Information Systems and how they have been used successfully in the Capital District. Albany Law School professors Joan Leary Matthews and Patricia Salkin have been working with the Symposium staff on the development of this program.

For more information about the Environmental Outlook Symposium, contact Kyle McCauley ’05 at kmccauley@mail.als.edu or the Albany Law Environmental Outlook Journal, 80 New Scotland Avenue, Albany, New York 12208 (518/437-7871) or the Government Law Center (518/445-2329).

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For more information, contact the Government Law Center (518/445-2329).
Hundreds Attend Senior Citizens’ Law Day

More than 500 Capital Region residents spent a day at Albany Law School this past fall listening to free seminars on a wide range of subjects such as long-term care, funeral planning, and Medicare. The event, held from 9 a.m. to 4 p.m. on November 6, was presented for the eleventh consecutive year by the Government Law Center.

Neal E. Lane, Acting Director of the New York State Office for the Aging, delivered the second annual “Nancy M. Sills ’76 Memorial Lecture,” established at Albany Law School through a generous endowment by Dr. Stephen Sills. The program also featured a panel discussion by local attorneys who answered questions posed by adult children of aging parents on a variety of care giving issues. Ten new programs for the “sandwich generation”—people caring for their aging parents as well as their own children—were presented on topics as diverse as resources for coping with Alzheimer’s, driving safety, and relieving caregiver stress.

Throughout the day, free workshops were offered by ALS Professor Laurie Shanks, and local lawyers and professionals in the community. Close to 70 ALS students and staff were on hand to help the seniors navigate hallways and locate classrooms.

Every attendee took home an updated copy of the Senior Citizens’ Law Day 2005 guidebook, produced by the Government Law Center, with answers to the most frequently asked questions on aging issues. The Office of Court Administration printed this popular publication free of charge to make it available.

Brian Decarolis ’05, Law Day Coordinator, and Theresa Wakefield ’05, Student Volunteer Coordinator, were instrumental to the success of the 2005 event.

The Eleventh Annual Senior Citizens’ Law Day was made possible through the generous sponsorship of BlueShield of Northeastern New York, Times Union, Albany County Department for the Aging, Child’s Nursing Home, Civil Service Employees Association, and KeyBank. Support was also provided by NYS Senator Neil D. Breslin, City of Albany Mayor Gerald D. Jennings, New York State Office for the Aging, and the State of New York Unified Court System. Other sponsors were: Albany College of Pharmacy, University Heights Association, Albany County Bar Association, Bella Napoli Bakery, Bountiful Bread, Carosello Bakery, City of Albany Department of Fire & Emergency Services, Dunkin’ Donuts, Hannaford, Honest Weight Food Co-op, Legal Aid Society of Northeastern New York, NYSSBA — Elder Law Section, Price Chopper, Senior Services of Albany, Inc., and Stewarts.

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

The popular Warren M. Anderson Legislative Breakfast Series is back for the start of the 2005 Legislative Session. Honorary co-hosts for the series are: Hon. Joseph L. Bruno, Majority Leader of the NYS Senate; Hon. Sheldon Silver, Speaker of the Assembly; Hon. David Patterson, Minority Leader, NYS Senate; and Hon. Charles Nesbitt, Minority Leader, NYS Assembly. Designed to provide lawmakers and policymakers with information on critical issues facing the State of New York, the seminars take place from 8-9 a.m. in the Assembly Parlor of the NYS Capitol in Albany.

The 2005 schedule is: The Fifth Anniversary of Charter Schools (February 15); Financing Public Education: An Update on the CFE Litigation (March 15); Lobbying Law Reform (April 12); Energy Law & Policy Update (May 21). Contact the Government Law Center (518/445-2329) to register for the programs.

Continuing Legal Education credits will be offered to attorneys who attend the programs.

The 2005 Warren M. Anderson Legislative Breakfast Series is underway in part by: The Civil Service Employees Association; The Energy Association of New York State; Girvin & Ferlazzo P.C.; Himman, Howard & Kattell; Himman, Straub; Pigors & Manning, P.C.; Meyer, Suzzo, English & Klein, P.C.; New York State United Teachers; Pryor Cashman Sherman & Flynn LLP; and Wilson, Elser, Moskowitz, Edelman & Dicker.

A. Kevin Crawford, Counsel to the Association of Towns of the State of New York, presents 2004 Edwin L. Crawford Lecture


State and local elected officials, municipal association representatives, and community advocates learned about the limitations placed on home rule over the years by various courts and the state legislature. They also heard suggestions for how these important powers can still be used by local governments to effectively regulate matters of local concern and enhance communities and quality of life.

The Edwin L. Crawford Lecture on Municipal Law focuses on current issues of importance in local government law. It was established in 1996 in memory of Edwin L. Crawford, former executive director of the New York State Association of Counties. An attorney, public servant, and advocate for local governments, Crawford lobbied on behalf of small municipalities he felt were neglected or abused by state government.

The program is made possible in part by a generous gift from Saratoga Associates and other donations.

To read a transcript of A. Kevin Crawford’s presentation, visit the GLC on-line (http://glc.als.edu).
Forum to Focus on Stem Cell Research Legislation

The GLC is sponsoring a symposium on Legislating Stem Cell Research to be held on the afternoon of May 5, 2005 at Albany Law School. The State Academy for Public Administration and the New York State Bar Association’s Committee on Attorneys in Public Service are co-sponsoring the event.

The symposium will cap a research initiative at the Government Law Center that began in the summer of 2004. Student research assistants working with the GLC’s Fellow in Government Law and Policy examined the legislative records of all fifty states, the United States Congress, and the United Nations to identify and summarize all recently-enacted or pending measures concerning stem cell research. The results of that research, which will be published prior to the symposium, include summaries of more than 200 separate pieces of legislation. Collectively, they are presented as examples of how any legislature might choose to address this issue.

The complexity of the science involved in stem cell research is one reason why informed policy making in this area is so difficult. The symposium will begin with a presentation entitled, “Stem Cell Research: Understanding the Science” by William D. Niemi, Ph.D., Professor of Biology, Neurobiology and Medical Physiology at The Sage Colleges. A panel discussion entitled “Stem Cell Research: Views from Ethicists” will feature among others a representative of the Catholic Conference of New York and Bonnie Steinbock, Ph.D., Professor of Philosophy at the University of Albany, State University of New York. Other topics to be addressed include: Regulating Stem Cell Research: A National Overview of Legislative and Statutory Approaches, and Options and Opportunities in New York: The Future of Stem Cell Research.

The federal government restricts the use of federal dollars for research that results in the destruction of human embryos. Federal research grant money is available for research that uses stem cells obtained from embryos destroyed prior to August 9, 2001, or that are obtained from sources other than embryos (such as umbilical cords or adults). The federal government generally does not otherwise restrict or regulate stem cell research that does not use federal dollars. Thus, in the absence of federal regulation, the field is left open for regulation by the various states. Many states, like New York, have not yet adopted regulations to govern stem cell research. Some states, however, have adopted regulations designed to either restrict such research or to specifically promote stem cell research and in some cases to fund it with state dollars. Similarly, proposed federal legislation spans the entire spectrum from authorizing the use of federal funds for human embryonic stem cell research regardless of the date of destruction of embryos (HR 3960, Stem Cell Replenishment Act of 2004) to banning the destruction of any embryos without due process, thereby effectively restricting research to stem cells derived from embryos destroyed prior to the Act or from sources other than embryos ($2190, Life at Conception Act).

The GLC’s research and symposium will provide information on the issues and the various legislative options in addressing this controversial public policy issue.

For more information, contact the Government Law Center (518/445-2329).

State Agency Rule Making Conference Scheduled

The New York State Department of State, the Governor’s Office of Regulatory Reform, and the Government Law Center of Albany Law School will sponsor a rule making conference at Albany Law School on March 18, 2005. Secretary of State Randy A. Daniels is scheduled to open the conference, which is being offered to state agency and public authority personnel involved in any capacity with the rule making process. The Hon. Howard Levine will make the keynote presentation.

The all-day program will cover a spectrum of rule making topics, from initial writing of the rule text to final packaging of a submission for publication in the New York State Register. Topics to be discussed include: the theory behind rule making, review of proposed rules by the Governor’s Office of Regulatory Reform, the NYCRR/State Register submission process, a review of rule making case law, and recent legislative proposals involving rule making.

For further information, please contact Deborah Ritzko, Director of the Division of Administrative Rules at the Department of State (518/474-957).

Land Use Mediation Training with Pace Law School

“Resolving Land Use Disputes,” a training program examining how to resolve land use disputes productively, will be held from 8:30 a.m. to 5 p.m. on March 3-4, 2005 at Pace University in White Plains, New York. The two-day introductory course, hosted by Pace Law School’s Land Use Law Center, will focus on approaches that help transform divisive land use disputes into opportunities that unite community in a common purpose.

Created by the Consensus Building Institute, the program will discuss the results of a report published by the Land Use Law Center on collaborative approaches to land use disputes. The report highlights six New York cases where consensus-based processes were used successfully to reach agreement on potentially controversial land use approvals. It combines the theoretical framework of consensus building with interactive simulations and exercises based on the results of the first comprehensive study of land use mediation in the United States. Case exercises and discussion include disputes over the rate and pattern of development in our communities, conflicts over infrastructure, disagreements over the clean-up of contaminated sites, water usage, and developing comprehensive land use plans.

Course trainers include: Lawrence Susskind and Merrick Hoben of the Consensus Building Institute, Cambridge, Massachusetts; Matthew McKinney of the Public Policy Research Institute at the University of Montana, Helena, Montana; and Patrick Field of the MIT–Harvard Public Disputes Program, Cambridge, Massachusetts. The Government Law Center is pleased to be a co-sponsor of this program.

To register online for this course, visit: http://www.lincolnsnt.edu/education/education-coursedetail.asp?id=195.
Long Term Care in the 21st Century is Discussed at Fall Roundtable
Full Report to be Published in 2005

On November 5, 2004, experts from the long term care and technology industries from around New York State, as well as representatives from state government, came together at the Government Law Center for the Edgar and Margaret Sandman Roundtable Discussion on Long Term Care in the 21st Century. Michael Clarke ’05, the 2004 Edgar and Margaret Sandman Fellow, led the discussion which focused on how technology can be used to improve long term care and reduce its cost to consumers, providers, and government. Included among the attendees were representatives from Northeast Health Office of Remote Care Technology, New York State Health Facilities Association, Empire State Association of Adult Homes and Assisted Living Facilities, Adult Guardian Society, New York Association of Homes and Services for the Aging, Brookdale Center on Aging, Albany College of Pharmacy, the Life Insurance Council of New York, the law firm of Pierro and Associates, the New York State Insurance Department, the office of Senator Mary Lou Rath, the office of Senator Martin Golden, and the office of Senator Kemp Hannon. Also in attendance was Saul Seinberg, Director of the Science and Technology Law Center of Albany Law School, and Rose Mary Bailly, Special Counsel to the Government Law Center.

The Roundtable Discussion was the culmination of a year long study by Clarke of the financial implications of long term care in the future and options for addressing the inevitable increased costs of care as the ranks of older New Yorkers swell.

Among the topics discussed at the Roundtable were technological innovations already used in long term care, the potential of technological innovation to insulate medication compliance, and barriers to successful implementation of new technologies. The attendees also examined the role for long term care insurance in technology driven care and privacy, economic and educational concerns. The consensus of the attendees was that technology can and should play a significant and beneficial role in long term care.

The 2004 Fellow’s Report will be published in early 2005 and distributed to members of the New York State Legislature, state and local agencies that focus on technology and health care and similar agencies in other states.

New York has become a leader in fostering and building a high technology economy. As part of this effort, significant consideration should be given not only to the developing of jobs and attracting businesses to the state, but also to the vital role that same technology can play in addressing how New York can reduce the rising costs of long term care for consumers, providers and government. The 2004 Fellow’s Report will provide interesting and thoughtful guidance on the path to this reform.

For more information, contact Rose Mary Bailly, Esq. (518/472-5858).

Conference To Teach NYC Businesses How to Sell Information Technology to New York State

The Government Law Center is co-sponsoring a conference on procurement law for businesses selling information technology (IT) to New York State on January 20, 2005 in New York City. “Doing IT Business With New York City and New York State: Where Do I Begin?” is co-hosted by the New York State Forum of the Rockefeller Institute of Government and the New York City Department of Information Technology and Telecommunications, and sponsored in conjunction with The Business Council of New York State, Inc. and the NYS Office of General Services, Procurement Services Group. It will take place from 9:15 a.m. to 4 p.m. at The Masonic Hall on 71 West 23rd Street in Manhattan.

The program is targeted to businesses offering IT-related products and services and is geared to provide in-depth information on contracting to do information technology-related business with New York City and New York State, particularly for those corporations that do not currently hold NYS contracts.

The morning presentations include "NYS IT Contracting Program Overview: State Contracting Basics Every Business Should Know" presented by Paula Moskowitz, Consultant and former Director of Procurement Services for the NYS Office of General Services; "NYS Strategic IT Directions and Outlook" by Susan Zeronda, Deputy Director of the NYS Office for Technology; and "IT Contracting with New York City: An Overview" by Ronald M. Bergmann, Deputy Commissioner of the NYS Department of Information Technology and Telecommunications and Carol Green, Assistant Commissioner of Procurement Services for the NYC Wide Department of Administrative Services.

A luncheon address on "The New York City and State Public Sector Context: The IT Contractor's Perspective," will be delivered by Peter Chynoweth, CMA Consulting Services and Member of The NYS Forum's IT Corporate Roundtable.

The afternoon sessions include a presentation by Rodney Luft, Procurement Services Group of the NYS Office of General Services, on "The NYS Backdrop Contract." "NYC IT Contracting" will also be highlighted, followed by a question and answer session. Gregory Benson, Executive Director, NYS Forum, Rockefeller Institute of Government, will provide closing remarks.

Online registration for the New York City IT Conference is available at www.nysfirm.org. The corporate registration fee is $125 and will include lunch and a copy of the most recent NYS IT Directory.

GLC NEWSLETTER
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Racing & Gaming Law Program: New Name, Initiatives Scheduled for 2005

T he Racing and Wagering Law Program has changed its name to the Racing and Gaming Law Program to more accurately reflect the broader scope of subject matter covered by the program (e.g., horse racing issues, charitable gaming, Indian casinos and racinos). Changes are currently being implemented to improve the program’s daily news update at www.als.edu/glcracingnews. Beginning in January 2005 there will be a registration requirement for the site, although users will still be able to access the site at no cost. Changes are also being implemented to make the site more user-friendly. It will still present “all the gambling news that’s fit to link.”

The Racing and Gaming Law Advisory Committee has established two new subcommittees: The Program Subcommittee is chaired by Heather Bennett, Esq., and the Membership Subcommittee is chaired by James Towne, Esq. These Subcommittees are actively working with the Government Law Center staff to develop new programs and to enhance the Racing and Gaming Law Network.

The Racing and Gaming Law Program’s 5th annual Saratoga Institute will be held in Saratoga Springs on Tuesday, August 2, 2005. The program will explore, among other things, an update on the work of the federal monitor at NYRA, intellectual property rights in horse racing, and the legality and viability of racinos in New York State.

For more information, contact Bennett Liebman (518/445-3263).

CLE for Alumnus in Government

A continuing legal education course in government law and a reception are planned for Thursday, February 10 at Albany Law School. Co-sponsored by the Government Law Center and the Alumni in Government constituent group, the continuing legal education course, entitled “The Role of the Agency Attorney in Employee Discipline,” will take place from 3:00 to 5:00 p.m., and is free to Albany Law School alumni. Topics to be covered include: the question of who is the client, and conflicts of interest when the attorney is in the same bargaining unit as the employee being disciplined. Attendees will earn two continuing legal education credits, one of which will be in the “ethics and professionalism” category. The course will be followed by an alumni reception at the law school. Robert Batson ’76 is the Chair of the Alumni in Government Group. For more details, please contact the alumni office at (518)445-3220, or alumni@mail.als.edu.

GLC Partners with National Academy for Public Administration on Environmental Justice Initiative

T he GLC is continuing its relationship with the Washington, D.C.-based National Academy for Public Administration to follow-up on the Academy’s 2003 report, Addressing Community Concerns: How Environmental Justice Relates to Land Use Planning and Zoning. Specifically, the GLC will work with the Academy to develop a national curriculum for incorporating environmental justice into routine planning and zoning decision making. This curriculum will then be used as the basis for three regional conferences designed to provide planning, environmental and community organizations with practical tools and guidance and a planning checklist for integrating environmental justice into local decision making. Conference proceedings will also highlight best practices. The conferences will take place in 2005 at Albany Law School (Albany), Hastings Law School (San Francisco) and the American Planning Association headquarters (Chicago). This 18-month project is funded by a grant from The Ford Foundation.

The GLC has been actively involved in academic research and scholarship on the topic of environmental justice (EJ), with a particular focus on the intersection of EJ and local land use planning and zoning decision making. Last spring, the GLC worked with EPA’s Office of Environmental Justice, EPA Region II and the NYS Department of Environmental Conservation to host a two-day training session on EJ for local planners and community developers in the Capital Region. Beginning in 2001, the Academy’s Standing Panel on Social Equity conducted three groundbreaking studies on EJ. Many of the recommendations in these reports are currently being acted upon by the EPA and some states. The most recent report found that local governments generally make the initial land use and zoning decisions that determine where various kinds of facilities can be sited, including sources of pollution—putting local planning and zoning boards in a pivotal role in helping to create or resolve inequities among different communities’ exposure to environmental and public health threats. This critical responsibility had not been fully explored previously, and it presents a unique and important opportunity to ensure meaningful citizen participation, improved access to information, greater public involvement in local land use decision making, and to provide a heightened awareness of the legal implications and policy choices ensuring social equity.

The project will be staffed by GLC Director Patricia Salkin who will be assisted by several Albany Law School students including Jasper Mills and Alejandra Rosario. Suellen Keiner (General Counsel for Academy Programs), Ann Goode (Deputy Director, Center for Economy and Environment) and Mark Hertko from the Academy will also staff the project. Philip Rutledge, Professor Emeritus of Public and Environmental Affairs and Director of the Center for Global Studies at Indiana University, chairs the Academy Panel that is guiding the implementation of this project. For more information on this program, please contact the National Academy of Public Administration (202/437-3190) or the Government Law Center (518/445-2329).
Once again, Albany Law School is offering its popular Summer in Government Program as part of its Summer School Session from May 31, 2005 to July 18, 2005. The Summer in Government courses are designed to offer law students from across the country, as well as practicing government lawyers, an opportunity to explore current legal issues in government. In addition, law students may choose to participate in a unique six-week internship program with state agencies and legislative offices where they are placed with government attorney-mentors.

The following courses are being offered for the 2005 program:

**Access to Government** (2 credits) will be taught by Robert Freeman, Executive Director and Counsel of the Committee on Open Government. This popular course covers the Freedom of Information Law and the Open Meetings Law, including interpretive opinions and case law. The course meets Tuesdays from 2-6 p.m.

**NYS Administrative Law** (2 credits) will be taught by Rose Mary Bailly, Executive Director of the NYS Law Revision Commission. This course examines state administrative law issues through a specific examination of the process and case law in New York State. The course will meet Monday through Thursday from 7-9 a.m. on a condensed schedule to end in June rather than mid-July.

**NYS Budget Law & Process** (2 credits) will be taught by Glen Bruening, Counsel at the NYS Department of State. This course will explore the constitutional and statutory framework for the development of the State budget, and it will examine case law in New York that further sets the parameters of the budget process. This is a new course that was recently added to the Albany Law School government law curriculum. The course will meet Tuesdays and Thursdays from 5-7 p.m.

**Current Legal Issues in Government** (2 credits) will be taught by William Snyder, Esq., the Post-Graduate Fellow in Government Law & Policy at the Government Law Center. Prior to this appointment, Snyder spent 14 years as an attorney with the Department of Justice in Washington, D.C. and in Pittsburgh, PA. Check the website link below for more up-to-date information regarding the two topics that will be covered in this seminar. The course meets Mondays and Wednesdays from 5-7 p.m.

**Federal Indian Law** (2 credits) will be taught by Robert Batson, a Government Lawyer in Residence at the Government Law Center. Batson’s State government career has included a particular focus on Indian land claims and the Federal Indian Regulatory Gaming Act. The course explores treaty obligations, constitutional and statutory frameworks, and case law. It meets on Wednesdays from 3-5 p.m.

**Government Ethics** (2 credits) is taught by the Hon. James King, a Government Lawyer in Residence at the Government Law Center and a former member of the New York Court of Claims. Judge King also served as a member of the Assembly and in the Executive Branch of State Government. This course examines ethics issues for government lawyers at all levels of government. It meets on Tuesdays and Thursdays from 9-11 a.m.

**Summer in Government Internship** (3 credits) is coordinated and taught by Justina Cintrón Perino, Staff Attorney at the Government Law Center. This 6-week placement requires students to spend a minimum of 20 hours per week working under the supervision of a government lawyer-mentor in a state government law office. The classroom component meets on Fridays from 8-10 a.m.

For cost information or to register for one or more of these courses, please contact the Registrar’s Office (518/445-2330). Watch our website (http://glc.als.edu) for course updates and more information.

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### Court Of Appeals Oral Arguments Available on Videotape

Attorneys, professors, researchers and other court watchers can purchase videotape copies of the oral arguments heard before the New York Court of Appeals from November 1989 to the present. Albany Law School, along with the Court of Appeals and WMHT, provide this popular public service.

Tapes of oral arguments are used by law firms as part of training programs for newer associates; attorneys preparing to argue before the Court of Appeals; attorneys engaged in researching and preparing for briefing and argument on similar issues before the Court; professors as part of classroom instruction in appellate advocacy and in substantive subject areas; and faculty and researchers studying courts, aspects of judging and particular substantive subject matter.

To order Court of Appeals oral arguments, contact Ginny Battige at the Government Law Center (518/445-2387) or visit www.http://glc.als.edu.

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### Court of Appeals Oral Arguments

**ORDER FORM**

Please complete this order form and mail it with an $80 check or money order (payable to Albany Law School) for each VHS videotape to: Government Law Center, Albany Law School, 80 New Scotland Avenue, Albany, NY 12208-3494. For more information, contact Ginny Battige at the Government Law Center (518/445-2387).

NAME: ____________________________

COMPANY/ORGANIZATION: ____________________________

ADDRESS: __________________________________________

CITY: ___________________________ STATE: _______ ZIP: _______

TELEPHONE NO: ____________________________

TITLE OF CASE: ____________________________ DATE CASE ARGUED: ____________________________
Membership in Networks Increase

The GLC’s Government Law Network and Racing and Gaming Law Network welcome the following new and renewing members from this past year:

2004 GLC Network Members

Michael Alsanese
Warren M.Anderson
Dean Martin H.Belsky
Robert E.Biggerstaff
Paul Bray
Franklin Breselor
John W.Caffry
Michael S.Danziger
Peter Danziger
Johnny Evers
Robert A.Feuerstein
Robert J.Freeman
David Fried
Donna Giliberto
Peter Glassman
Howard Goldsmith
Herbert Gordon
Hon.Victoria Graffeo
Anne Marie Haber
Maureen Harris
Nancy E.Hoffman
Floyd Holloway
William Holzapfel
James F.Horan
Gregory Jones
Joan Kehoe
John J.Kelliher
Paul R.Kietzman
Andrew Koski
Anne Marie Liske
John A.Mancini
Lydia Marola
Joseph Martens
Richard G.Martens
Todd Miles
Carol E.Murphy
Cecilia Norat
Emilio Petroccione
Philip C.Pinsky
Matthew Plunkett
Robert W.Redmond
Sandra Rivera
Irene Ropelewski
Jeffrey J.Sherrin
Christine Timber
James D.Toll
Patricia K.Wood
Arnis Zilgme
Marc P.Zylberberg
Jerry Bilinski
Ira J.Cohen
Michael J.Hoblock,Jr.
William MacMillen,Jr.
Mary Ann McGinn
Lonny T.Powell
E.Guy Roemer
Michael Shanley
Louis Tavano
James T.Towne Jr.
Jerry Weiss
Harvie B.Wilkinson
Chris Wittstruck

Joining a Network provides you with numerous benefits exclusive to members such as all program announcements, invitations to “member only” events, and select publications at no additional cost.

To join, fill out the form below. For more information, contact the GLC (518/445-2329).

Make A New Year’s Resolution
to Become a Member of the Government Law Network!

Fill out the form below and send it with a $50 check (payable to Albany Law School) to: Government Law Network, Government Law Center, Albany Law School, 80 New Scotland Avenue, Albany, NY 12208-3494. For more information, contact the GLC (518/445-2329).

NAME: ____________________________________________________________
COMPANY/ORGANIZATION: _______________________________________
ADDRESS: _______________________________________________________
CITY: ________________________ STATE: __________ ZIP: ______________
TELEPHONE NO: __________________ FAX: __________ Email: __________
GLC Director Edits New American Bar Association Publication on Trends in Land Use Law

A new book edited by Patricia E. Salkin, Associate Dean and Director of the Government Law Center of Albany Law School, has been released from the ABA Press. *Current Trends and Practical Strategies in Land Use Law and Zoning* is a 10-chapter book instructing lawyers, planners and municipal officials on some of the leading challenges and issues in land use law today.

In addition to serving as editor, Salkin has contributed two chapters to the work on planning and zoning for an aging population and ethics in land use. In the aging chapter, Salkin focuses on providing practical strategies that will allow the aging baby boomers to age in place by ensuring housing affordability and a range of housing choices to meet a variety of preferences and needs. Special zoning ordinances, the use of floating zones, special use permits and accessory dwelling units are among the legal techniques discussed. The ethics chapter explores recent cases and litigation in the land use field where allegations of conflicts of interest, bias, unfairness and improper motive were central to the effective administration of local planning and zoning programs.

The book also contains chapters on recent developments in the area of siting of religious land uses, the use of referendum and affordable housing, developer claims of vested rights, regulatory takings, environmental justice and land use decision-making, incentives for historic preservation, inclusionary zoning, and how to take strategic advantage of “friends of the court” briefs in land use litigation.

Salkin is immediate past-chair of the American Bar Association’s State and Local Government Law Section, and she currently serves as Secretary of the Municipal Law Section of the New York State Bar Association. For more information about the new book, please contact the American Bar Association at www.abanet.org.

Roundtable Identifies Opportunities to Enhance Regionalism

On December 3, 2004, the GLC facilitated an invitational roundtable on regionalism in New York. Executive Directors of the various government-connected regional organizations in the State, including regional planning councils, metropolitan planning organizations, and heritage corridors were in attendance, as well as leading staff from the Hudson River Greenway Program, the Adirondack Park Agency, the Albany Pine Bush and the Catskill Watershed Corporation. In addition to representatives from the Land Use Law Center at Pace Law School and Rockefeller College of the University at Albany (a co-sponsor of the program), staff from the Department of State (including the Quality Communities Program), the Office of Parks, Recreation and Historic Preservation, and the Office of the State Comptroller also participated.

GLC director Patricia Salkin facilitated the five-hour session, consisting of a discussion of fourteen questions dealing with the challenges, successes and opportunities for regionalism across the State. Issues where there was emerging consensus included: the need for additional State funding to support various regional initiatives; the need for more technical assistance on intermunicipal cooperation and regionalism; a need for more education on regionalism including access to case studies and best practices; and a desire for additional forums to discuss these issues. Several recommendations were also made aimed at strengthening the regional aspects of the Quality Communities Program. The Government Law Center will be publishing a paper summarizing the roundtable in early 2005. For more information or to obtain a copy of the report, please e-mail Patricia Salkin at psalk@mail.als.edu.

New Report Published on Financial Exploitation of the Elderly

The Government Law Center published a new report this past fall on financial exploitation of the elderly and vulnerable adults. Hardly a new phenomenon, this situation is becoming more recognized as a significant problem to the steadily increasing aging population. This report, based on an extensive year-long study, carefully examines what constitutes financial exploitation in the community, the various networks and barriers that currently exist in assisting its victims, and what options might be introduced for reducing or eliminating its occurrence.

With the aging population in New York State expected to increase at a significant rate each year until 2025, the concern about financial exploitation will also continue to grow unless changes are made. This report provides guidance to everyone interested in leading the way to reform.

The report was authored by Crystal Doolity ’04 and Melina Greenberg ’03 who served as the 2003 Edgar & Margaret Sandman Fellows at the Government Law Center of Albany Law School. The report may be accessed online at (http://glc.als.edu).
Patricia Salkin delivered two presentations on government ethics in September 2004 at the New York Conference of Mayors’ Fall Training School in Ellenville, New York. She spoke on ethics in land use and on the erosion of government lawyer-client confidentiality. She was the keynote speaker for the Second Annual Forum of Lake George Watershed Conference on Water Quality Management and Resource Conservation. Her presentation centered on inter-municipal cooperation and was the subject of an article, “Act regionally is the message of LG Watershed Forum,” appearing in the Lake George Chronicle on September 30, 2004.

William Snyder, Government Law and Policy Fellow, is teaching a course at the Law School, Foreign Relations & National Security Law, which studies the Constitutional, statutory, and international law framework within which the U.S. conducts foreign relations and international law enforcement. It considers the allocation of authority over foreign affairs and national security among the agencies of government, and selected contemporary issues such as responses to terrorism, the Foreign Intelligence Surveillance Act, the USA PATRIOT Act, the Classified Information Procedures Act, and the legal relationship between law enforcement, the intelligence community and the military.


An op-ed by Bennett Liebman, “Gambling votes undermine ‘morals’analysis,” appeared in the Sunday, November 21, 2004 Times Union. He was also quoted in an article which appeared on October 9, 2004 in the article, “Simulcast dispute continues between NYRA, MidAtlantic Cooperative,” which appeared in Bloodhorse. The Program on Racing and Gaming Law was mentioned in the Law Beat section of the November 18, 2004 Times Union. It was also highlighted on the U.S. Trotting Association website on October 22, 2004.

Robert Batson was mentioned in the December 3, 2004 Rochester Democrat and Chronicle article, “Johnson slates casino hearing.” He was also quoted in the December 9, 2004 Times Union article, “Pataki’s big bet no sure thing.”

Patricia Salkin addressed the New York State Conference of Bar Leaders at their annual meeting in October 2004 to discuss the recommendations of the Commission to Promote Public Confidence in Judicial Elections (Salkin served as Vice Chair of the Commission.).

Patricia Salkin was a Discussant for a panel on eminent domain at the November 5, 2004 American Institute for Economic Research conference on “Property Rights: The Essential Ingredient for Personal Liberty and Development,” in Great Barrington, Massachusetts. She participated in a CLE teleconference. Ethical Issues in Your Municipal Practice, presented by IMLA and Municipal Litigation Reporter on November 17, 2004.

Bennett Liebman made a presentation at the 2004 Racing and Gaming Summit in Tucson, Arizona on December 7, 2004 about racing and gaming legislation in the Mideastern states on the panel, “Legislated for Success.”

The GLC is pleased to be working with the following three Albany Law School students who are spending a “Semester in Government in Washington D.C.” in Spring 2005: Joseph Rocca (U.S. Patent & Trademark Office), Graham Van Epps (United States Agency for International Development), and Victoria Reimann (U.S. Department of Justice). Also in the Spring of 2005, Albany Law School will host two law students from the City University of New York Law School through the “Semester in Government in Albany” Program. Third-year law students Adam Garfinkel and Inessa Meyequivich will be joining the staff of the NYS Department of Education and the NYS Department of Environmental Conservation. Second-year ALS student Seth Schraier will also be participating in the Law School’s SIG program, and interning with the Counsel’s Office in the NYS Senate Majority.

Many thanks to the following ALS students who worked at the GLC during the fall 2004 semester: Elizabeth Buckley ’05; Erin Butler ’05; Patrick Cummings ’05; Brian Decarolis ’05; Michael Donohue ’05; Andres Gil ’06; Christopher Hempstead ’06; Kristin Laviolette ’06; Jasper Mills ’06; Allyson Phillips ’06; Alejandra Rosario ’06; Stacey Stump ’06; Kenneth Weaver ’06; as well as Field Placement students Laura Cail ’06 and Andrew Poplinger ’06.

Thank you to the ALS alumni who participated in the fall 2004 Careers In New York State Government and Careers in the NYS Legislature panels, co-sponsored by the Government Law Center, Career Planning, and ALS Alumni in Government Group: Robert C. Batson ’75, ALS Government Lawyer in Residence; M. Tracey Brooks ’00, NYS Assembly, Counsel to Judiciary Corporation; William Collins ’76, NYS Assembly, Majority Counsel and GLC Advisory Board Member; Jessica Giroux ’03, NYS Senate, Senator James Alesi’s Office; Kelly Munkwitz ’98, NYS Office of the Attorney General; Sara Paupini ’03, former Senate Fellow, NYS Senate Fellowship; Elisha Peterson ’01, NYS Department of State; Charles Sullivan Jr. ’75, NYS Department of Environmental Conservation; and James Walsh ’96, NYS Governor’s Office of Regulatory Reform.

The Distinguished Alumnus Award in Political Science was awarded to Patricia Salkin by The Nelson A. Rockefeller College of Public Policy, University at Albany, on November 30, 2004. GLC Board Member Robert McEvoy received the Rockefeller College Distinguished Service Award at the event.

In fall 2004, three new members were appointed to the Albany Citizens’ Police Review Board: Jason Allen, GE Energy’s Project Management Leadership Program; Reverend Beresford Bailey, Pastor of the Star of Bethlehem Missionary Baptist Church in Albany; and Ronald M. Flagg, Associate Director for Strategic Planning and Program Development at the Berkshire Farm Center & Services for Youth. In October 2004, four members of the Board attended the annual conference of the National Association of Civilian Oversight of Law Enforcement (NACOLE) in Chicago. The Albany Citizens’ Police Review Board is staffed by Justina Cintron Perino, Esq., of the Government Law Center.