Faculty Affiliates Enhance Government Law Center Projects

The GLC is poised to address a broader range of topics thanks to more than 20 Albany Law School faculty members. The affiliated faculty offer additional expertise to the Center in diverse government law and policy-related areas such as civil rights, bioethics, health law, economic development and world trade, intellectual property law, and international law. The faculty are already adding significant diversity to the Center’s robust programs by serving as advisors, principal investigators, conference or program coordinators and speakers.

Highlighted below is the recent work of a number of our affiliated faculty, demonstrating the breadth and reach of their work in the area of law and public policy.

Professor Raymond H. Brescia – Improving Legal Responses to the Subprime Mortgage Crisis

Raymond H. Brescia is visiting Assistant Professor at Albany Law School. He formerly served as the Associate Director of the Urban Justice Center in New York City, a Skadden Fellow at The Legal Aid Society of New York, and law clerk to the Hon. Constance Baker Motley.

Professor Brescia recently has devoted his energies towards researching the subprime mortgage crisis and its impact on local communities. His scholarly pursuits in this area are directed towards assessing and improving legal responses to the subprime mortgage crisis, including: class action litigation around mortgage discrimination; municipal lawsuits to stem the tide and impacts of foreclosures; the ability of the Community Reinvestment Act to combat predatory lending; and the use of problem-solving techniques (like those used in the domestic violence, drug court and mental health court settings) in the foreclosure context.

Professor Brescia has contributed commentaries to Slate Magazine and The Albany Times Union on legal responses to the crisis, and his article on the relationship between fair lending laws and subprime lending, “Subprime Communities: Reverse Redlining, The Fair Housing Act and Emerging Issues in Litigation Regarding the Subprime Mortgage Crisis,” can be found in the most recent edition of the Albany Government Law Review.

For more information on Professor Brescia’s research, he can be reached at rbres@albanylaw.edu.

Professor Evelyn Tenenbaum – Exploring Standards for Regulating Sexual Relations of Dementia Patients in Nursing Homes

Evelyn M. Tenenbaum is a Lawyering Professor at Albany Law School and an Adjunct Professor of Medical Education at Albany Medical College. She served in the Attorney General’s Office as a Section Chief and Assistant Solicitor General and was also a consultant to the New York State Department of Health.

Professor Tenenbaum’s latest article, “To Be or To Exist: Standards for Deciding Whether Dementia Patients in Nursing Homes Should Engage in Adultery, Sex, and Intimacy,” will be published in the Indiana Law Review. The article addresses the legal issues confronting nursing homes when resident dementia patients choose to have sexual relationships. The article suggests a legal standard for determining whether to allow these relationships to continue, considers the impact of adultery laws if this standard is adopted, and evaluates alternative standards that could be used and the advantages and disadvantages of each.

Professor Tenenbaum spoke on this issue at the American Society of Law, Medicine, and Ethics Health Law Professors Conference in Philadelphia and at the Midwest Family Law Conference in Indianapolis.

Continued on page 4
Governorship of Charles Evans Hughes – Relevant to New York Politics Today

While he served as New York State governor, United States Secretary of State, and as the only person who served two different terms on the United States Supreme Court (including a decade as Chief Justice), Charles Evans Hughes seems to be little remembered these days. Executive Director of the Government Law Center Bennett Liebman will be speaking to the New York State Bar Association’s Committee on Attorneys in Public Service to review the governorship of Charles Evans Hughes on June 10, 2009, in The Great Hall at the New York State Bar Center.

Hughes served as governor 100 years ago, and much of what happened during his two terms in office remains relevant today. Hughes was elected governor at the height of the Progressive Era, and his political views were shaped by that movement. Before serving as governor, Hughes had not worked at all in government or politics, and he may have been New York’s most apolitical governor. He also served at a time when New York State constituted 10% of the population of the nation, and what happened in Albany not only did not stay in Albany but affected the rest of the nation. For more information or to register, contact Maria Kroth at mkroth@nysba.org

UPCOMING EVENT

SYMPOSIUM – The Proposed Legislation to Amend The Public Authorities Law

March 2009

For more information:
visit the Government Law Center’s website
www.albanylaw.edu/glc

Save Time and Save Trees – Sign Up for E-News Briefs

We’re trying to better serve our busy readers by offering timesaving email summaries of upcoming Center activities. Our E-Newsletter briefs will save you time by listing only the main points of GLC events, with a link to click on if you want to read the additional details. It is a “green” initiative that will help reduce the carbon footprint. Please email Trish Blanco (tblan@albanylaw.edu) if you are interested in receiving our concise online e-newsletter. We look forward to hearing from you!
From the Director

Over the last decade governments at all levels have been challenged to do more with less, but with the bleak economic outlook for the immediate future, fiscal issues will play a more prominent role in the development and refinement of public policy across the country. Raising revenues to pay for essential programs and services will be more difficult, and investments necessary to meet aging infrastructure, ensure the development and use of technology to enable governments to remain competitive and to ensure a sustainable environment will not be easy. The Government Law Center has shifted the focus of a number of our programs to enable our faculty, staff and students to provide research and thoughtful leadership on a number of these economic issues. For example, together with the Albany Government Law Review we have worked on a just-published issue focusing on the subprime mortgage crisis. For the first time, our Anderson Legislative Breakfast Program will be thematic, with a special examination on fiscal issues. We will soon launch our on-line clearinghouse on local government restructuring and students are beginning to explore various aspects of mandate relief.

In this issue of the Government Law Center newsletter we have started two new features – one designed to introduce you to our faculty affiliates and their areas of research and scholarship, and the other to introduce you to the outstanding Albany Law School students who work at the Government Law Center providing research assistance on a variety of cutting edge law and public policy topics. We could not include all of our faculty affiliates and students in this issue, but we plan to showcase more of them as a regular feature in both our e-news and our newsletter.

Much of our research this year in the land use and environmental arena focuses on the challenges of climate change and global warming. As a result, the Government Law Center is examining ways in which we might also help to reduce the carbon footprint. Towards that end, we are planning to eliminate one of our paper newsletter issues, replacing it with shorter bi-monthly e-news alerts. To ensure you are keeping apprised of our available research, training programs, conferences and other opportunities, we need your email address. Please send an email to Trish Blanco at tblan@albanylaw.edu to request to be added to our e-news distribution list. Your email address will not be shared with other organizations.

Patricia E. Salkin

From the Executive Director

If you’re paying attention to New York State government at all these days you must realize that, like it or not, we’re living in interesting times. Torts law savants, who specialize in reasonable expectations and foreseeability, could not have predicted the self-destruction of the Spitzer administration, the end of Senator Joseph Bruno’s long reign as State Senate Majority Leader, and the nearly unprecedented financial turmoil in State and local government.

All these events have simply highlighted the need for greater dedication on government law as a true discipline inside the law. It has also focused the need for more thoughtful programs on government issues. How does a state government balance its budget, how does it deal with its workforce, what does it do with retirement benefits, and what portion of the State’s cuts will fall on local governments? We at the Government Law Center will do our best to provide the research and programs that will hopefully provide greater insight on these issues and operations of government. We strongly invite you to attend our Warren Anderson Breakfast programs held each month in winter and spring at the State Capitol during the legislative session, and if you have any suggestions on future programs, please let me know.

As an aside, I started working at the Government Law Center due to my prior experience in gambling issues in State government. For decades, we have worried about the effects of compulsive gambling on society. Without diminishing the problems of compulsive gambling, how odd is it to see that the geniuses of investment have caused far more extensive societal problems than could ever be imagined of the gambling industry? Maybe we’ve learned that our great investors were simply gamblers on an extensive lucky roll or perhaps the lesson is that investing is simply a swankier and more respectable term for gambling.

Bennett Liebman

Albany Law School and Government Law Center Recognized for Marketing of Senior Citizens’ Law Day

Albany Law School, the Government Law Center, and the Law School’s communications office received a 2009 Silver Award from the Council for Advancement and Support of Education (CASE), which is the national organization for educational advancement professionals, for excellence in the marketing and promotion of Senior Citizens’ Law Day. Awards are presented annually to colleges and universities to recognize best practices, programs and communications in advancement.

Hosted annually by the Government Law Center for the past 15 years, Senior Citizens’ Law Day is the largest community educational event held on the Albany Law School campus. This year’s event will take place on October 3, 2009.
GOVERNMENT LAW CENTER
FACULTY AFFILIATES
Professor Stanley Adelman
Professor Melissa Breger
Professor Raymond H. Brescia
Professor Stephen Clark
Professor Beverly Cohen
Professor Joseph M. Connors
Professor Anthony Paul Farley
Professor Paul Finkelman
Professor James Thuo Gathii
Professor Stephen E. Gottlieb
Professor Peter H. Halewood
Professor Michael J. Hutter
Professor Kathryn D. Katz
Professor Kathe Klare
Professor Mary A. Lynch
Professor Timothy D. Lytton
Professor Nancy M. Maurer
Professor Alicia Ouellette
Professor David Pratt
Professor Rosemary Queenan
Professor Laurie Shanks
Professor Sandra M. Stevenson
Professor Evelyn Tenenbaum

Faculty Affiliates (Continued from page 1)

Professor David Pratt –
Communicating Complex New
Procedures for Post-Retirement
Benefits

David Pratt has published extensively, primarily on employee benefits topics, including 3 articles on physician-assisted suicide. He is the co-author of the Social Security and Medicare Answer Book (Aspen) and of Taxation of Distributions from Qualified Plans (Warren, Gorham & Lamont). He also is a Fellow of the American College of Employee Benefits Counsel and a Senior Editor of the Journal of Employee Benefits.

Last month, Professor David Pratt spoke at the New York State Bar Association’s 132nd Annual Meeting, held in New York City, as part of the NYSBA Municipal Law Section panel. The topic was Governmental Accounting Standards Board (GASB) 45, the new accounting rules for post-retirement benefits (including health benefits) provided by governmental employers.

In addition to pensions, many state and local governmental employers provide other postemployment benefits (OPEB) as part of the total compensation offered to attract and retain the services of qualified employees. OPEB includes postemployment healthcare, as well as other forms of postemployment benefits (for example, life insurance) when provided separately from a pension plan. GASB 45 establishes standards for the measurement, recognition, and display of OPEB expense/expenditures and related liabilities (assets), note disclosures, and, if applicable, required supplemental information (RSI) in the financial reports of state and local governmental employers. Government employers who may be affected by the new provision include states, towns, education boards, water districts, and public schools.

Government Law Center Advisory Board members Ken Bond, Esq., and Steve Acquario, Esq., were also on the panel. Anyone who would like a copy of Professor Pratt’s outline can ask for one at dprat@albanylaw.edu.

Professor Timothy D. Lytton –
Revealing the Influential Role of
Litigation in the Catholic Church’s
Sexual Abuse Scandal

Timothy D. Lytton is the Albert and Angela Farone Distinguished Professor of Law at Albany Law School. His previous books include Suing the Gun Industry: A Battle at the Crossroads of Gun Control and Mass Torts (University of Michigan Press 2005).

Professor Lytton’s latest book, HOLDING BISHOPS ACCOUNTABLE: HOW LAWSUITS HELPED THE CATHOLIC CHURCH CONFRONT CLERGY SEXUAL ABUSE, published by Harvard University Press in 2008, tells the story of how the tort system was used as an engine of social justice by revealing how pleadings, discovery documents, and depositions fueled media coverage of the scandal. The book shows how the litigation strategy of plaintiffs’ lawyers gave rise to a widespread belief that the real problem was not the actions of individual priests but rather the church’s massive institutional failure. It also documents how church and government policymakers responded to the problem of clergy sexual abuse only under the pressure of private lawsuits.

The sexual abuse of children by Catholic clergy is arguably the most acute crisis Catholicism has faced since the Reformation. The prevalence of clergy sexual abuse and its shocking cover-up by church officials have obscured the largely untold story of the tort system’s remarkable success in bringing the scandal to light, focusing attention on the need for institutional reform, and spurring church leaders and public officials into action.

As this book demonstrates, the lessons of clergy sexual abuse litigation provide a reason to reconsider the case for tort reform and to look more closely at how tort litigation can enhance the performance of public and private policy-making institutions.

Professor Stephen E. Gottlieb –
Examining What is Necessary for
the Survival of Democracy

Stephen E. Gottlieb is the Jay and Ruth Caplan Distinguished Professor of Law at Albany Law School and author of Morality Imposed: The Rehnquist Court and Liberty in America. He is also a member of the Board of the New York Civil Liberties Union and served in the US Peace Corps in Iran.

Professor Gottlieb has been working on the implications of scholarship about how and why democracy survives. Two pieces of that research are coming out in article form this year. One, coming out in the Georgia State University Law Review, examines the way that changes in American law have played a major role in creating the partisan environment that
During the spring 2009 semester, more than a dozen Albany Law School students have been working on a variety of research projects and programs at the Government Law Center, enhancing the Center’s research capacity while introducing students to current law and policy issues, and at the same time giving students an opportunity to work closely with attorneys, policymakers and lawmakers in the analysis of legal options for public policy reform. The Center is pleased to highlight eight of its spring 2009 student researchers and the various law and policy areas they are exploring.

Renewable Energy, “Green” Laws and Climate Change Initiatives

Debra Collura ’11 is a native New Yorker from Brooklyn. Ms. Collura moved to Albany from Boston in August 2008. She is a professional librarian who worked at the Boston Public Library for over a decade.

Ms. Collura began working for Dean Salkin in January 2009, researching the regulation and siting of wind energy projects across the country. She is also monitoring the state of the state addresses to determine what the governors are saying about renewable energy and wind power.

Second-year student Robin Wheeler ’10 grew up in Memphis, New York, located west of Syracuse in Onondaga County. She is currently assisting Dean Salkin with research on New York municipalities that have enacted “green” laws. These include resolutions, ordinances and local laws pertaining to green building development, Energy Star, climate change, solar energy, wind energy and waste management.

Located near Lake Champlain, Colchester, Vermont, is the place Eric Garofano ’11 calls home. He is working with Dean Salkin and Amy Lavine, Esq. to examine what states across the nation are doing to address climate change. Specifically, he is researching Climate Change Action Plans and Executive Orders with a focus on the role of local governments for effective implementation of these plans.

Benjamin A. Lee ’11 is from Queensbury, New York. His research this semester has been centered on local, state, and federal government involvement in the siting of wind turbines, implications for the future of the existing regulations, and proposals for future development and delegation of authority.

Documenting Activities of the Albany Citizens’ Police Review Board

Marwa Elbialy ’10 of Guilderland, New York, is working on the quarterly reports for the Albany Citizens’ Police Review Board, produced by the Government Law Center. She has experience working on civil liberties issues, including researching international prisoners rights and interviewing incarcerated individuals.

Originally from Brookline, Massachusetts, Patricia Malley ’11 also is working on Albany Citizens’ Police Review Board initiatives. Ms. Malley’s responsibilities include research on legal and policy development in the area of citizen oversight of law enforcement. Her background includes serving as an intern in an urban police department, where she worked on discrimination complaints and other issues.

Both Ms. Malley and Ms. Elbialy are working under the direction of Sharmaine Moseley, Coordinator of the Citizens Police Review Board at the GLC.

Home-Sharing with Senior Citizens

First-year student Lauren Palmer is “thankful for the opportunity to work as a research assistant at the Government Law Center” and anxious to apply the skills she’s learned to legal issues that interest her. “I could not have asked for a better work study,” she concludes.

When Ms. Palmer came to Albany Law School, she had the intention of studying elder law. Ms. Palmer is currently researching senior home sharing, a type of alternative housing program that she participated in herself. Her interest in elder law began when she participated in the home sharing program run by the New York Foundation for Senior Citizens in New York City. Home sharing programs strive to meet the individual needs of both parties involved. In exchange for a room in their home, seniors receive household assistance or rent from their housemate.

Ms. Palmer is currently researching senior home sharing, a type of alternative housing program that she participated in herself. Her interest in elder law began when she participated in the home sharing program run by the New York Foundation for Senior Citizens in New York City. Home sharing programs strive to meet the individual needs of both parties involved. In exchange for a room in their home, seniors receive household assistance or rent from their housemate.

Ms. Palmer was matched with a ninety-year-old woman and lived on the Upper East Side for a discounted rent by New York City standards. The match was a success by all accounts. She was able to assist in household chores and give companionship to a senior citizen in exchange for a safe living environment. Additionally, she was exposed to certain issues senior citizens face, such as housing and medical concerns, and learned to appreciate the value of intergenerational relationships.

Continued on page 6
Currently, Ms. Palmer is volunteering with Senior Services of Albany and visiting a homebound senior citizen for a couple of hours per week. This experience has helped her to understand the current issues senior citizens face today. “Together with my personal experience and the guidance of Professor Bailly, I am looking forward to the research I will be doing at the Government Law Center,” says Ms. Palmer.

Reforming Eminent Domain

Hailing from Salt Lake City, Utah, Lynn Evans ’10 believes “The Government Law Center has been an excellent experience, providing me a wonderful opportunity to further develop my research skills while learning more about fascinating legal issues.”

Since completing work on Dean Salkin’s American Law of Zoning treatise this past summer, Mr. Evans has been involved in a number of research projects primarily focused on eminent domain reform. He researched the development of the public use requirement in the United States Supreme Court prior to its 1954 decision, Berman v. Parker, and compiled information regarding ballot initiatives in many states in response to the recent Supreme Court case, Kelo v. City of New London. Currently Mr. Evans is researching cases from state high courts regarding economic development as a public use.

Anderson Seminars Cast Light on State’s Fiscal Challenges

The State’s fiscal crisis will be the focus of the first three programs of The 2009 Warren M. Anderson Legislative Breakfast Series. The seminars will take a close look at the impact on tax policy, local government, and the public sector workforce. The final program will explore the State’s investigatory commissions.

The opening seminar on February 24, Tax Policy in a Time of Fiscal Crisis, will feature David S. Liebschutz, Director, Strategic Planning and Analysis, Center for Governmental Research, and James Wetzler, Director, Multistate Tax, Deloitte Tax LLP; and former New York State Commissioner of Taxation and Finance. The Effect of the Fiscal Crisis on Local Governments in New York, with presentations by GLC Advisory Board members Kenneth W. Bond, Squire, Sanders & Dempsey L.L.P., and Paul D. Moore, former Project Director, GLC Shared Municipal Services Incentives Program Project, is scheduled for March 24. On April 21, The Role of the Public Service Workforce in a Financial Crisis will be discussed. A final program on Investigating the Investigatory Agencies – How Many Investigatory Commissions Are Enough? will take place on May 19.

The seminars will be held from 8-9 a.m. in the Assembly Parlor Room on the 3rd Floor of the Capitol Building. Named in honor of former Senate Majority Leader Warren M. Anderson, a distinguished graduate of Albany Law School, the programs are free of charge, and complimentary Continuing Legal Education (CLE) credits are available for attorneys who attend. Also, with the assistance of New York State Assemblyman Kevin A. Cahill ’80, at least three of the Anderson seminars will be recorded.

Majority Leader Malcolm H. Smith, Senator Dean Skelos, Assembly Speaker Sheldon Silver, and Assemblyman James Tedisco have agreed to serve as Honorary Co-hosts of the 2009 Anderson Series.

This year’s Anderson Series is made possible through the generous support of our sponsors. They are, to date: Brown McMahon & Weinraub LLC, the Business Council of New York State, Inc.; CSEA Local 1000 AFSCME, AFL-CIO; The Energy Association of New York State; Girvin & Ferlazzo, PC; Greenberg Traurig, LLP; Hinman Straub P.C.; Wilson Elser Moskowitz Edelman & Dicker LLP and the NYS Association of Counties.

A strong turnout is expected at this year’s Anderson Series. Call (518) 445-2329 or email tblan@albanylaw.edu early to reserve a seat to attend.
State’s New Power of Attorney Reforms Sparked by Work of Former Sandman Fellows

On January 27, 2009, Governor David Paterson signed chapter 644 of the Laws of 2008, effective March 1, 2009, amending the general obligations law to provide significant reforms to the use of powers of attorney in New York. Although easy to obtain and simple to create, the power of attorney is often used to accomplish complex transactions particularly in the area of gift giving and property transfers for financial and estate planning. It is also frequently used in exploiting vulnerable adults. The new law addresses statutory gaps and clarifies ambiguities that will assist parties creating durable powers of attorney and third parties asked to accept them.

The early work of the Government Law Center on reforming durable powers of attorney paved the way for this change. In 1993, the GLC issued the report, Abuse and the Durable Power of Attorney: Options for Reform written by Margaret Z. (Meg) Reed ’94 and Jonathan Federman ’94, the 1993 Edgar and Margaret Sandman Fellows. That report offered several options for reform aimed at educating the Principal and establishing the accountability of the Agent. The options aimed at the Principal’s education made their way into legislation in 1994 and further amendments were adopted in 1996. However, the recommendations regarding the accountability of the Agent were not adopted. “Abuse and the Durable Power of Attorney: Options for Reform,” by Jonathan Federman and Meg Reed (1994), is available online at the Center’s publications clearinghouse, www.governmentlaw.org, (click on “programs,” and “The Edgar & Margaret Sandman Fellowship Program”).

In 2000, the New York State Law Revision Commission undertook a further examination of the use of powers of attorney, and after years of study and drafting, recommended to the Legislature the adoption of certain amendments to the law. Significantly, the new law establishes the accountability of the Agent to the Principal and his or her representatives. The Agent’s role, fiduciary obligations, and legal limitations are explained in the statute and the statutory power of attorney form. The Agent must sign the power of attorney to acknowledge his/her fiduciary obligations. The Agent’s actions in all transactions (including electronic ones) for the Principal constitute an attestation that the Agent is acting under a valid power of attorney and within the scope of the Agent’s authority.

An explanation of how the power of attorney can be revoked is provided. The Principal may appoint someone to monitor the Agent’s actions on behalf of the Principal, and the Monitor has the authority to ask the Agent for a copy of the power of attorney and records reflecting transactions for the Principal.

Third parties can refuse to accept powers of attorney based on reasonable cause, including the Agent’s refusal to provide an original or certified copy of the instrument, the third party’s concerns about the validity of the power of attorney based on its good faith referral to the local adult protective services unit (APS), actual knowledge of a referral to APS by another person, and actual knowledge of the Principal’s death or the Principal’s incapacity when she executed the document or when the Agent presents a non-durable power of attorney. A financial institution must accept a validly executed power of attorney without requiring the power of attorney to be on its form. When a third party unreasonably refuses to accept a power of attorney, the Agent can seek an injunction compelling acceptance of the power of attorney through a special proceeding. The third party, including financial institutions such as securities brokers, securities dealers, securities firms, and insurance companies, does not incur any liability in acting on a power of attorney unless the third party has actual notice that the power is revoked or otherwise terminated.

Finally, the statutory gifting provision amount is increased to that of the annual exclusion amount under the Internal Revenue Code (Code), a provision is added allowing gifting up to the annual gift tax exclusion amount to a “529” account, a popular tax-advantaged savings account for education expenses authorized in the Code at section 529, and the provisions regarding gift splitting are amended to allow the Principal to authorize the Agent to make gifts to a defined list of relatives from the Principal’s assets up to twice the amount of the annual gift tax exclusions, with the consent of the Principal’s spouse.
Danielle Holley ‘10 Receives Sandman Fellowship for 2009

Danielle Holley ‘10 has been selected as the recipient of the Government Law Center’s Margaret and Edgar Sandman Fellowship for 2009. Established in 1993, the program gives Albany Law students the opportunity to explore an emerging issue in aging or health law in depth for a year. This year’s study will focus on a nationwide examination of state legislative responses to issues of aging.

Ms. Holley is President of the Health Law Society, an Associate Member of the Moot Court Board, and a Member of the Journal of Science & Technology. She also is a 2010 candidate for an M.S. in Bioethics from the Alden March Bioethics Institute.

Making a Difference — Albany Law Interns in D.C.

Seven Albany Law School students are spending their spring 2009 semester interning at federal agencies in Washington, D.C. Offered as a joint initiative of the Albany Law School Clinic & Justice Center and the Government Law Center, the Semester in D.C. Program gives students the opportunity to spend a full semester working under the supervision of a government lawyer-mentor in the nation’s Capital, where they work side-by-side with policy makers and other decision makers on a wide range of government issues. The GLC is pleased to spotlight the internship experiences of several of the spring 2009 Semester in D.C. interns in this edition of the newsletter.

Anthony Pegion ‘10 is interning at the U.S. Department of Justice (DOJ) in the Civil Division, Commercial Litigation, National Courts Branch. His assignments at DOJ include working on an Appellate Brief for the Federal Circuit Court regarding the limits of the Court of International Trade Subject Matter Jurisdiction; a motion to dismiss for lack of jurisdiction and failure to state a claim upon which relief can be granted for the Court of Federal Claims; and a research project on the impact of a recent Supreme Court Decision, Bell Atlantic v. Twombly, regarding the heightened standard for stating a claim in pleadings and its impact on the National Courts branch of the DOJ. Amy Tu ‘10 is also working at the DOJ, in their Civil Litigation Branch, National Courts Section, where she has been drafting briefs. Interning in the Environmental Crimes Section at DOJ, Sarah Darnell ’09 has been working on a variety of search and seizure assignments, requiring her to perform legal research and memo writing. Daniel Wood ’09 is interning at the U.S. Department of Labor’s Office of Administrative Law Judges, where he is working on a digest of case notes and is writing decisions.

GLC Students Assist with Police Review Board Initiatives

Last year the Albany Citizens’ Police Review Board (CPRB) created a newly designed brochure to be used by the CPRB in its outreach efforts. The revamped brochures were distributed to libraries, police stations, schools, organizations, and churches within the City of Albany. “A Citizens’ Guide to the Complaint Review Process” is available both in English and in Spanish.

In addition, with the assistance of the Government Law Center, the CPRB launched a new electronic complaint database. Albany Law School student Kenneth Jello ’10 created the database. Albany Law School student Sanjeev Devabhakthuni ’10 has been entering data from the complaint files into the system. The database will be used to maintain information contained in a complaint and information that develops during the complaint investigation process. The information will be used for reporting purposes for the CPRB as well as tracking the status of complaints.

For more information, and to view pdf versions of the re-vamped CPRB outreach brochure, visit www.albanylaw.edu/cprb.

Albany Law School Faculty Members Take Part in Saratoga CLE Series

Four Albany Law School professors participated in the successful “CLE in Saratoga Seminar Series” presented by Albany Law School’s Institute of Legal Studies.


Continuing Legal Education at Albany Law School is provided through the Institute of Legal Studies. To find out about future CLE programs, visit www.albanylaw.edu (click on “Centers,” “Institute of Legal Studies,” “Upcoming CLE Courses.”)
New Strategies in Food Regulation: Restricting Salt Consumption to Reduce Hypertension

Two-dozen professors and policymakers gathered on campus for a conference on food regulation that focused on reducing salt consumption as a strategy for addressing public health concerns over hypertension.

The purpose of the conference was to explore innovative regulatory strategies for food regulation beyond traditional proposals such as labeling, taxation, and advertising restrictions. In recent years, regulatory scholarship—from environmental to health and safety regulation—has been moving away from proposals for centralized, top-down regulation and towards more decentralized, market-oriented approaches. Conference participants considered strategies for improving information about the risks of excessive salt consumption, performance-based regulatory approaches that would require food retailers to adopt measures aimed at reducing the rates of hypertension in the areas where they operate, litigation against food manufacturers, and government-sponsored social marketing programs aimed at helping consumers make healthier food choices.

The conference was organized jointly by Professor Timothy Lytton of Albany Law School, Professor Stephen Teret of The Center for Public Health Law at the Johns Hopkins Bloomberg School of Public Health, and Professor Stephen Sugarman of the University of California, Berkeley (Boalt Hall) School of Law. Participants included distinguished academics from Yale, Johns Hopkins, the University of Michigan, the University of Texas, the University of California at Berkeley, the University of Wisconsin, and SUNY and policy specialists from the New York State Department of Health, the New York City Department of Health, the Center for Science in the Public Interest, and the food industry.

The conference was part of ongoing efforts by the Government Law Center to bring leading scholars from around the country to the law school to explore contemporary issues of law and public policy. Previous conferences have examined gun control, affirmative action, immigration, and medical malpractice.

Reforming Civil Justice — What’s Really Needed?

On November 13, 2008, the Government Law Center hosted an invitational roundtable entitled “Civil Justice Reconsidered.” The conference gathered legal scholars from leading universities—including Harvard, Yale, NYU, Vanderbilt, the University of Michigan, the University of Texas, and the University of California at Berkeley—to discuss a book manuscript by University of Michigan law professor Steven Croley. The conference focused on current criticisms of the civil justice system and suggested reforms for improving it.

Professor Croley argues that public concern with frivolous litigation is overblown, and that the real failure of the civil justice system is inadequate access to the courts for individuals with meritorious claims that are not large enough to pay the significant costs of suing. The litigation crisis, in other words, is not a problem of too many lawsuits but of too few. All sides of the current debate over civil justice reform were represented, and discussion was lively.

This conference is the latest in a series of “book incubator” conferences sponsored by the GLC aimed at helping authors develop book manuscripts.

Educating the Public Sector Workforce

The Government Law Center continues its role in educating the public sector workforce through training contracts with the Research Foundation of City University of New York and the Professional Development Program of Rockefeller College.

Through our contract with CUNY, several hundred people have received training on legal topics relevant to board members of state and local public authorities. For information about upcoming training programs, contact Trish Blanco at (518) 445-2329, tblan@albanylaw.edu.

We continue our affiliation with the Professional Development Program of Rockefeller College to offer courses in: Conflict Resolution, the State Environmental Quality Review Act, Investigative Interviewing, Copyright and Fair Use, as well as Negotiation Skills for Attorneys. Many of these courses include Continuing Legal Education credit, and are taught by Albany Law School faculty and practitioners. For information on the Government Law Center’s education and training programs, please contact Barbara Mabel at bmabel@albanylaw.edu or (518) 445-2327.


Albany Government Law Review Addresses Consequences of Subprime Mortgage Disaster

The current issue of the Albany Government Law Review explores ways government can work to solve the disastrous consequences of the subprime mortgage crisis. In his Foreward to this issue, New York State Governor David A. Paterson highlights the scope of the problem in New York and outlines the multi-pronged approach taken by the State to protect borrowers and stabilize lending. The articles, contributed by leading thinkers on law and policy issues of real estate, urban planning, community development, urban justice, and finance (see insert on this page), provide readers with insight into the specific problems caused by this lending, and its effect on our communities, our states and our nation. Although the larger global financial crisis will not be brought to an end overnight, this issue is an excellent resource in the quest to regain control of the economy and our communities.

Published twice a year, each issue of the Albany Government Law Review focuses on a theme relating to legal aspects of government and public policy. Albany Law School Associate Dean Patricia Salkin and Professor Paul Finkelman, the President William McKinley Distinguished Professor of Law and Public Policy and Senior Fellow at the Government Law Center at Albany Law School, serve as Co-faculty Advisors to the Albany Government Law Review. Professor Ray Brescia provided significant faculty oversight of the subprime mortgage issue.


--

ALBANY GOVERNMENT LAW REVIEW
Currently Available Online

ALBANY GOVERNMENT LAW REVIEW SYMPOSIUM (VOL. I, ISSUE 2)
Firearms, the Militia, and Safe Cities: Merging History, Constitutional Law, and Public Policy

October 18-19, 2007 – Albany Law School

Read articles or listen to live presentations at www.albanylaw.edu (click on “Academics,” “Journals,” “Albany Government Law Review,” “Current Issue”)

--

ALBANY GOVERNMENT LAW REVIEW
The Worst of Times: Perspectives on and Solutions for the Subprime Mortgage Crisis
Volume 2, Issue 1 (2009)
Foreword by New York State Governor David A. Paterson

Articles and Authors

Tenants: Innocent Victims of the Nation’s Foreclosure
by Vicki Been & Allegra Glashausser

Raising the ROOF: Addressing the Mortgage Foreclosure Crisis through a Collaboration between City Government and a Law School Clinic
by Robin S. Golden and Sameera Fazili

Code Enforcement and Community Stabilization: The Forgotten First Responders to Vacant and Foreclosed Homes
by Joseph Schilling

Subprime Communities: Reverse Redlining, the Fair Housing Act and Emerging Issues in Litigation Regarding the Subprime Mortgage Crisis
by Raymond H. Brescia

The Subprime Mortgage Crisis: Will New Regulations Help Avoid Future Financial Debacles?
by Dorit Samuel

Current and Future Challenges to Local Government Posed by the Housing and Credit Crisis
by Alan C. Weinstein

The Sex Offender Management and Treatment Act: New York’s Attempt at Keeping Sex Offenders Off the Streets…Will it Work?
by Sara E. Chase

Increased Driving Regulations for The Elderly: A Case Study in New York Calling for the Expansion of Current Regulations
by Jonathan Cohn

Subduing the Ceaseless Storm: Breaking the Build-Destroy-Rebuild Cycle Following Major Catastrophes through Taxation and Responsibility
by Kevin Ramakrishna

--
Attorneys Across the State Participate in Interactive Conference Exploring Innovative Ways to Manage Rising Municipal Legal Costs

The Government Law Center held an interactive conference entitled, “Reducing Municipal Legal Costs Through Shared Tech and Resources,” on September 26, 2008 at the Hilton Garden Inn, Albany. Attorneys from municipal law departments and experts in legal process, content, technology and metrics took part in the web-based seminar.

An audience, logged on from across the State, provided input on developing a universal case and contract management and legal resource sharing system to address the unique needs of municipalities. The “Big Legal Portal,” a new large web portal developed for use by the legal community, was previewed at the program. Other topics addressed were productivity and best practices; law firm quality and costs; and legal metrics.

Robert Elliott, Deputy New York Secretary of State, delivered a keynote address. Other program participants included Bernard Hillengas, Consultant, Huron Consulting Group; Michael Kenneally, Associate Counsel, New York Association of Towns; Iris Jones, Esq., Chief Business Development and Marketing Officer, Chadbourne & Parke, LLP; Linda Kingsley, former Corporation Counsel for the Cities of Rochester and Binghamton; Foster Mills, Managing Attorney, New York City Law Department; Paul Moore, Director of Shared Municipal Services Initiative, Government Law Center, Albany Law School; Howard Prottor, Esq., Managing Director, Jacobowitz & Gubits, LLP; David Rodriguez, Senior Deputy Corporation Counsel, City of Buffalo; Patricia E. Salkin, Esq., Associate Dean, Professor of Law and Director of the Government Law Center, Albany Law School; Debra Snider, Author, Speaker and Former General Counsel; Daniel Spitzer, Partner, Hodgson Russ, LLP; Lester D. Steinman, Director of the Edwin G. Michaelian Municipal Law Resource Center, Pace University; and Nena W. Wong, Esq., CEO, The Corporate Legal Standard, Inc.

The program was presented by the Government Law Center in conjunction with The Corporate Legal Standard, Inc. It was co-sponsored by the ABA State and Local Government Law Section, the Association of Towns of the State of New York and General Code. To view a podcast of this event, visit www.corplegalstandard.com.

Free Legal Advice Offered at Senior Citizens’ Law Day

Hundreds of senior citizens and their family members received free legal advice this past fall from attorneys, Albany Law School professors, and other area experts at The Capital Region’s Fifteenth Annual Senior Citizens’ Law Day, presented by the GLC on October 25, 2008 at Albany Law School.

Albany Law School faculty participating in the program were: Professor Beverly Cohen; Professor Christine Sgarlata Chung, Director of the Securities Law Clinic; and Professor Deborah S. Kearns, Director of the Taxpayer Clinic. In addition, the following students from the Securities Arbitration Clinic made presentations at the program: Megan Burke, Lynn Evans, Yumi Frost, David Leimgruber, Peter McCormack, Kristofer Ostrom, and Jonathan Rogow. Richard Iannello, Executive Director of the Albany Guardian Society, delivered the Nancy M. Sills ’76 Memorial Lecture at the event. His topic, “Ten Things I Wish I Knew Before I Got Old,” was well received, and a recording of it is available online (http://podcasts.classcaster.org/index.php).

The free event featured seminars on legal, health and financial topics of current importance to seniors and their families, including connecting caregivers to community resources, surviving a money crunch, and navigating the estate planning world.

The Pro Bono Law Clinic, offered for the third year in a row, was made possible through a collaboration between the New York State Bar Association’s Elder Law Section and the Government Law Center. A large number of attendees took part in the one-on-one meetings with local elder law attorneys.

Sponsors of this year’s program were the Times Union; CSEA; Velocity Print Solutions; New York State Senator Neil D. Breslin; Albany County Department for Aging, Michael G. Breslin, Albany County Executive; New York State Office for the Aging; State of New York Unified Court System, Office of Court Administration; Office of New York State Attorney General, Andrew M. Cuomo; City of Albany, Office of Mayor Gerald D. Jennings; BarBri; Bella Napoli Bakery; Capital District Community Gardens; CDPHP; CDTA; City of Albany Department of Fire and Emergency Services; Experience Works; First Investors Corporation; Hannaford; Honest Weight Food Co-op; Legal Aid Society of Northeastern New York, Inc.; Starbucks, and Stewart’s.

Mark your calendars for next year’s Senior Citizens’ Law Day taking place on Saturday, October 3, 2009.
More than 20 veteran racing and gaming professionals—a “Who’s Who” of industry experts—offered valuable insight on topics ranging from federal immigration law and horse racing to the future of harness racing and OTBs in New York State at the Saratoga Institute on Racing and Gaming Law. Presented by the Racing and Gaming Program of the Government Law Center of Albany Law School, the program took place at the Gideon Putnam Hotel and Conference Center in Saratoga Springs, NY. Connie Mayer, Acting President and Dean of Albany Law School, provided introductory remarks.

A Pre-Institute Program on “Drugs at the Racetrack: Who Should Be Held Liable?” opened the event, with panelists Jerry Bilinski, DVM; Don Baker, DVM; Gary Contessa, Thoroughbred Trainer; George Maylin, PhD, DVM, Associate Professor of Toxicology at Cornell; and Rick Violette, President, National Thoroughbred Horsemen’s Association. “The State of Racing” was discussed by Bennett Liebman, Executive Director of the Government Law Center, and Alex Waldrop, Esq., President and CEO of the National Thoroughbred Racing Association.

Industry Experts Convene at 8th Annual Saratoga Racing and Gaming Institute

Professor Patrick Connors of Albany Law School moderated an examination of “The NYRA Franchise: What Now?” provided by Steven Crist, Daily Racing Form, C. Steven Duncker, New York Racing Association; and Paul Francis, Esq., The Cedar Street Group. “Steroids and Other Drugs: What’s Next?” was the topic of a discussion by Alan Foreman, Esq. of the New York Thoroughbred Horsemen’s Association; Edward Martin of the Association of Racing Commissioners International; George Maylin, PhD, DVM, Cornell University; and Scot Waterman, DVM, of the Racing Medication and Testing Consortium. The panel was moderated by Rick Goodell, Esq. of the NYS Racing and Wagering Board.

Following lunch, two concurrent breakout sessions focused on “Harness Racing and OTBs: Will They Survive? Should They?” and “Immigration, Labor Law and Horse Racing.” Steve Casscles, Esq. of the New York State Senate moderated the first session, which featured: Ira Block, Esq., New York City OTB; Jeffrey A. Casale, Suffolk Regional OTB; Joseph A. Faraldo, Esq., Standardbred Owners Association; and Jeffrey R. Gural, Newmark & Co. The second panel, moderated by James T. Towne, Jr., Esq., Towne, Bartkowski & DeFio Kean, P.C., included Gary Contessa, Thoroughbred Trainer; Elena DeFio Kean, Esq., Towne, Bartkowski & DeFio Kean, P.C.; and David Myers, Esq., Meyers and Meyers.

Leading authorities in the field of land use law and religion gathered at Albany Law School for a three-day symposium, “God and the Land: Conflicts Over Land Use and Religious Freedom,” on October 1-3, 2008. The symposium examined what defines religion in our society, the political and constitutional implications arising from the intersection of religion and land use, and a multidimensional legal perspective in the wake of a fury of litigation concerning RLUIPA. The event was presented by the Albany Government Law Review and co-sponsored with the Government Law Center.

Chief Justice Randall T. Shepard of the Indiana Supreme Court opened the program with his remarks on “Defining Community in a Society Focused on Rights.” The event also included The Edwin L. Crawford Memorial Lecture on Municipal Law presented by Marci A. Hamilton, Cardozo School of Law, on “Why RLUIPA is an Unconstitutional Establishment of Religion” and The Edward C. Sobota ’79 Memorial Lecture delivered by Hon. Michael W. McConnell, University of Utah, S.J. Quinney School of Law; 10th U.S. Circuit Court of Appeals, on “The Judicial Interpretation of the Constitutional Religion Clauses.”

Also speaking were: Angela Carmella, Professor of Law, Seton Hall Law School; Daniel Dalton, Esq., Tomkiw Dalton, PLC; Fred Gedicks, Guy Anderson Chair and Professor of Law, BYU Law School; Leslie Griffin, Larry and Joanne Doherty Chair in Legal Ethics, University of Houston Law Center; Dr. T. Jeremy Gunn, Director, ACLU Program on Freedom of Religion and Belief; Wendie L. Kellington, Esq., Law Offices of Wendie L. Kellington; Dwight H. Merriam, Robinson & Cole, LLP; Robert Miller, Professor of Law, Lewis & Clark Law School; Dean Elizabeth Reilly, University of Akron School of Law; Steven Rosenbaum, United States Department of Justice; Shelley Ross Saxer, Associate Dean of Academics, Professor of Law, Pepperdine University School of Law; Julie Tappendorf, Esq., Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.; and Nelson Tebbe, Associate Professor of Law, Brooklyn Law School.

The scholarship presented at this event will be published in the Albany Government Law Review’s spring 2009 issue. You may also link to audio transcripts of the program online (http://www.albanylaw.edu/sub.php?navigation_id=297&event_id=285).

Albany Government Law Review Launches Nation’s First Student-Written Law Blog

The Albany Government Law Review has launched the Albany Government Law Review Fireplace (http://www.glrfireplace.albanygovernmentlawreview.org/), which is the first student-written and edited law blog in the country and the first legal blog to engage in substantive law review-like legal analysis and academic speculation. Unlike the typical blog, which publishes quick, often stream-of-consciousness entries, the Fireplace will publish entries that resemble shorter versions of law review comments and include citations on recent developments in government law and policy.
The latest two issues of the Government, Law and Policy Journal have focused on two important and timely topics. The monumental legacy of Honorable Judith S. Kaye, former Chief Judge of the New York State Court of Appeals, is highlighted in the Winter 2009 issue. The Summer 2008 issue takes a close look at some of the challenges faced by governments and communities with respect to global warming and climate change.

An outstanding group of authors contribute articles to these issues of the Journal (see inserts). Honorable Jonathan Lippman, Presiding Justice of the Appellate Division, First Department—who recently was nominated by the Governor to serve as New York’s next Chief Judge—provides introductory remarks and serves as the most recent volume’s guest editor. Judge Kaye’s esteemed former colleagues on the Court of Appeals, Honorable Albert M. Rosenblatt and Honorable Howard A. Levine, are among the contributors.

The 12 articles in this issue cover many of the reforms of New York’s court system instituted during Judge Kaye’s inspirational tenure as Chief Judge, including overhauling the jury system, introducing hundreds of drug treatment, domestic violence and other problem-solving courts, improving the quality of justice for children and families, promoting public trust and confidence in the judicial elective process, increasing access to justice, fostering commercial courts and, most recently, reforming the town and village justice system.

Last summer’s issue addressed possible ways of curtailing global warming or adjusting to the changes created by it. The issue includes a Recommendation and Report, adopted by the American Bar Association at its February 2008 meeting, urging the United States government to take a leadership role on the matter.

Rose Mary Bailly, Esq., serves as Editor-in-Chief of the Government, Law and Policy Journal. J. Kevin Healy, Esq. of Bryan Cave LLP serves as guest editor of the Summer 2008 issue. The Student Editorial Board for that issue includes Martha Kronholm ’08, Executive Editor, and Senior Editors Kevin Hines ’09, Rita Pasarell ’08, Kaitlin Rogan ’08, Brian Sharma ’08, and Thomas Wilder ’08. Lauren DiPace ’09 serves as the Executive Editor of the Winter 2009 issue of the Journal, along with student editors Christopher Clark ’09, Samantha David ’09, Cecilia Faleski ’09, Ruth Green ’09, Kevin Hines ’09, Daniel Katz ’09, and Jessica Vaughn ’09.

Government, Law and Policy Journal is published by the New York State Bar Association, with the cooperation of the Government Law Center. The issue on climate change is a collaboration of the NYSBA Committee on Attorneys in Public Service and Environmental Law Section.
The Government Law Center, in conjunction with the Pro Bono Partnership and CARES, Inc., presented a seminar on “Legal Checkup for Nonprofits” at Albany Law School. The program featured Richard S. Hobish, Esq., Executive Director of the Pro Bono Partnership, and Maurice K. Segall, Esq., Director of the Partnership’s New York and Fairfield County, Connecticut Programs. Representatives from several area not-for-profit organizations attended the program which featured an overview of the legal resources to nonprofits provided by the Pro Bono Partnership and the fundamental legal issues to be considered in nonprofit set up and management.

The seminar represented a continuation of the Center’s focus on providing legal information to grassroots nonprofits in the Capital Region, an effort which began more than 10 years ago through its Lawrence Klepper Non-Profit Legal Assistance Program. Through the Klepper Program the Government Law Center has paired law students with attorneys who agreed to provide pro bono or low-cost legal services to nonprofits so that students would gain a better understanding of nonprofit law, and develop a sense of pro bono while being mentored by local attorneys. Most recently, last year the Center received a federal grant for a program to assist and educate area nonprofit organizations through the efforts of four Albany Law School student fellows, resulting in an online paper series addressing nonprofit governance issues and a successful conference attended by members and staff of not-for-profits. The Klepper Program is funded in part through donations to the Social Action Committee at Congregation Beth Emeth.

The Pro Bono Partnership is a leading provider of free business legal services, educational workshops and other legal resources to nonprofit community-based organizations located in Fairfield County and greater Hartford, Connecticut; the lower New York Hudson Valley, including Westchester, Orange, Putnam and Rockland Counties; and New Jersey. The Partnership assists nonprofit organizations serving poor or disadvantaged individuals and families, civic groups, arts organizations, and environmental or conservation groups; provides a wide range of opportunities for attorneys in corporations and law firms to work on rewarding pro bono business and transactional matters; and particularly focuses on engaging volunteers from corporate legal departments.
Faculty Affiliates (Continued from page 4)

many denounce. These changes have involved parallel trends in the law of political campaigns and elections and the law of mass communications. The collective impact of these changes has not been appreciated. This article brings these developments together and identifies their collective impact.

The article demonstrates how legal regulation shaped the centrism of the mid-twentieth century and regulatory shifts in media and election law shaped the partisanship of recent decades. Sensible proposals will not and should not bring the naive centrism of earlier decades back. But they might curb the excesses of contemporary politics.

The second piece, coming out in Rutgers Law Review, examines the relationship of modern political science and modern constitutional law, both here and abroad. The empirical political science relating to the survival of republican government has not made it into American constitutional law. Although specific protections in the Constitution are often hailed as essential for democratic society, the broader issue of what may be necessary to protect American democracy has received little attention, either in the context of the republican government clause or elsewhere.

Political scientists are posing a particularly strong challenge to constitutional law because one of the strongest conclusions to emerge from their study of the breakdown of democratic government has been the importance of a reasonably egalitarian society, with a reasonable division of resources among the population.

For constitutional law the first problem is whether such research is even relevant to constitutional analysis. Even if it is, it runs directly counter to the insistence on judicial restraint in economic matters that has dominated much constitutional thinking since early in the twentieth century. Although the Rehnquist Court reinvigorated some protections for the accumulation of wealth, the thrust of the empirical findings is to protect the distribution of wealth and not merely its accumulation.

This article addresses those issues and argues, contrary to the dominant paradigm, that constitutional law should incorporate those empirical findings.
Understanding Community Benefits Agreements
by Patricia E. Salkin and Amy Lavine
THE PRACTICAL REAL ESTATE LAWYER, p. 19, July 2008
This article explores both the opportunities and traps of CBAs for developers, municipalities and community organizations.

Sustainability at the Edge: The Opportunity and Responsibility of Local Governments to Most Effectively Plan for Natural Disaster Mitigation
by Patricia E. Salkin
The traditional link between disaster mitigation and local land use planning was highlighted by the Disaster Mitigation Act (DMA) of 2000, which emphasizes the need for mitigation coordination among state and local entities. This article looks at the role of local governments in natural disaster mitigation, specifically, how local governments may use traditional land use powers, such as the police power, to protect against disasters. The paper cites DMA provisions that offer financial incentives to states that work with local governments to plan for growth and disasters; and sets forth case studies to illustrate how states can create vertical links among federal, state, and local entities to coordinate disaster mitigation strategies.

Negotiating for Social Justice and the Promise of Community Benefits Agreements: Case Studies of Current and Developing Agreements
by Patricia E. Salkin and Amy Lavine
A community benefits agreement (CBA) is a private contract negotiated between a prospective developer and community representatives. In essence, the CBA specifies the benefits that the developer will provide to the community in exchange for the community’s support, or quiet acquiescence, of its proposed development. The promise of community support may be especially useful to a developer seeking government subsidies or timely project approvals. The CBA is a relative newcomer to the toolbox of strategies that communities may utilize to ensure that development occurs consistent with the sometimes more narrow goals and desires of neighborhood residents, as opposed to the sometimes broader goals and desires of municipal and regional governing bodies. The CBA concept is still in its infancy. However, with only about ten years of experience with CBAs, a number of differences and similarities are emerging as case studies are developed and reviewed across the country. This article is intended to document a comprehensive review of major CBA processes in cities across the United States; some successful, some not so successful, and some still in the development stages to gain better insights into the legal, social, and political aspects of negotiating for social justice as part of the land development process.

Blogging on Land Use Law: Another Legal Research Tool on the Internet
by Patricia E. Salkin
This article provides guidance and recommends weblogs to explore on land use; environmental law and climate change; eminent domain; and social justice and community development.

Political Contributions in New York in 2007 from Racing and Gaming Interests
by Bennett Liebman
The author discusses how the world of contributions from racing and gambling interests in New York shifted greatly in 2007 from 2006.

The Mitchell Report and Horse Racing
by Bennett Liebman
Transcript of speech delivered at Harness Tracks of America and Thoroughbred Racing Associations 6th Annual Joint Meeting, February 20, 2008
The author looks at drug use in horse racing in light of The Mitchell Report, the result of former United States Senator George J. Mitchell’s investigation into the use of anabolic steroids and human growth hormone in Major League Baseball.

Guardianship — Stopping Financial Exploitation in its Tracks
by Rose Mary Bailly
Courts, through the appointment of guardians, offer one way of preventing financial exploitation of vulnerable adults. The author, an expert in guardianship, explains the process used by courts in this process.

Law of the Land — Year in Review
by Patricia E. Salkin
36 REAL ESTATE L.J. 484 (Spring 2008)
The author reviews trends and interesting cases in land use law as reported cases on her “Law of the Land” weblog during the last half of 2007.

The 15th Annual Senior Citizens’ Law Day Reference Book
by Rose Mary Bailly, Esq.
Updated information on more than a dozen of the topics addressed during the GLC’s 2008 event held on the Albany Law School campus.
Connect with Others and Support the Work of the Government Law Center:
Join the GLC Network

Resolve to join the Government Law Network today. As a member, you demonstrate support for the vital work of the Government Law Center. You interact with an informed group of individuals involved in issues of mutual interest. You have an impact on the future direction of the Center.

Members include attorneys, elected officials at all levels of government, corporate government relations specialists, Legislative and executive staff, business organizations, Statewide associations, advocacy groups, and others who benefit from Network programs and contacts.

Membership offers significant benefits such as invitations to special events, including “member-only” networking breakfasts featuring major leaders in government, as well as access to programs developed by the GLC, the respected Albany “think tank.” Network members receive announcements of every GLC event on law and policy topics such as aging, racing and gaming, land use and the environment, energy, government ethics, lobbying, and citizen oversight of law enforcement.

MEMBERSHIP APPLICATION

How To Join: Membership is structured at different levels to allow for a variety of expressions of support for the work of the Government Law Center. Benefits are the same at each level, except that the higher levels receive more prominent recognition when announced in the GLC newsletter, Albany Law School Report of Gifts, and other select publications from time to time.

Please accept my new member application for the level indicated below.

- Underwriter ($1,000)
- Patron ($500)
- Associate($50)
- Sponsor ($250)
- Member ($100)

- Payment of $___________ is enclosed. Please make check payable to Albany Law School.
- Please send me an invoice.
- I am interested. Please send me more information.

Name ____________________________________________________________________________
Organization _____________________________________________________________________
Address __________________________________________________________________________
City / State / Zip ___________________________________________________________________
Phone ____________________________________________________________________________
Fax / Email Address __________________________________________________________________

Please mail completed form to:
Government Law Network
Government Law Center
Albany Law School
80 New Scotland Avenue
Albany, NY 12208-3494
Tel (518) 445-2329
Fax (518) 445-2303

18
Appointments

Governor David Paterson appointed GLC Director Patricia Salkin to the Empire State College Council and Executive Director Bennett Liebman to the board of directors of the New York Racing Association, Inc.

The NYS Bar Association appointed Patricia Salkin to the Association’s Task Force on Global Warming and to a special committee to examine the process for appointments to the Court of Appeals.

Patricia Salkin was reappointed as Chair of the American Planning Association’s Amicus Curiae Committee for 2008-2009. The Committee filed 8 amicus briefs in 2007-2008 in state courts in Ohio, Michigan, Wisconsin, Maryland, Oregon, New York, New Mexico and in the 1st Circuit Court of Appeals. All of the briefs are available at: http://www.planning.org/amicusbriefs/.

Presentations

Bennett Liebman moderated two panels at the forum held on July 29, 2008 by the New York State Task Force on Retired Racehorses. He spoke on the current conditions of horse racing at the Union College Adult Lifelong Learning Program, and he gave remarks at the New York Gaming Summit in Saratoga Springs held on June 25, 2008.

In October, Patricia Salkin delivered a presentation on ethical considerations in land use planning and zoning for the Upstate Chapter of the American Planning Association in Canandaigua, NY. She also spoke on the Religious Land Use and Institutionalized Persons Act for the Capital District Humanist Society in Albany, and on Climate Change and Community Development for the Union College Adult Lifelong Learning Program.

Rose Mary Bailly gave a presentation at the Elder Law Section of the NYSBA meeting in August on “Trends in Reforming Powers of Attorney-Comparing the Uniform Power of Attorney and New York’s Proposal.” At the Adult Abuse Training Institute in Albany, sponsored by the OCFS, Bureau of Adult Services in September, she provided a “Guardianship Law Update” and spoke on “Elder Abuse and the Law: A Guide to the New York State Laws that Combat Elder Abuse.”

In November 2008, Patricia E. Salkin facilitated the opening session of the 2008 Backyards & Beyond Education Conference for Firewise Communities in Tampa, FL. The session, entitled “Responsibility in the Real World,” examined issues of responsibility and action in preventing wildland/urban interface disasters through the use of planning, zoning and intermunicipal cooperation. Also in November, she spoke on “Wind Development: Ethics, Government and the Attorney General’s Code of Conduct for Wind Developers” at the Environmental Breakfast Series at Whiteman Osterman & Hanna LLP. Patricia Salkin and GLC Staff Attorney Amy Lavine will present a 90-minute teleconference about Community Benefits Agreements on May 12, 2009. Community Benefits Agreements (CBAs) can increase public participation in the planning process, promote smart growth and environmental justice goals, and bring neighborhoods, local governments, and private interests together to make development projects more sustainable, transparent, and accountable. The teleconference will discuss what CBAs are and how they can benefit all of the stakeholders in the development process, the process of negotiating CBAs, legal issues relating to CBAs, and techniques for implementing and monitoring CBAs. For more information, see http://www.lorman.com.

Publications

In November 2008, the fifth edition of AMERICAN LAW OF ZONING, written by Patricia Salkin, was published by West. This comprehensive 5-volume treatise provides attorneys, planners, policy decision-makers, and other land use professionals with a national overview of the history and development of zoning in the United States, together with a review of the current state of zoning, planning, and land use regulation.

Patricia Salkin served as editor for ETHICAL STANDARDS IN THE PUBLIC SECTOR, SECOND EDITION (American Bar Association Press, August 2008) and 2009 ZONING AND PLANNING LAW HANDBOOK (Thomson-West 2009), and as co-author of a new textbook BORDERING ON MADNESS: AN AMERICAN LAND USE TALE, COMPANION READER (with Prof. Andrew Popper of American University College of Law and David Avitabile, Esq.) published by the Carolina Academic Press in the Fall of 2008.

Amy Lavine and Patricia Salkin co-authored three articles on Community Benefits Agreements this summer. “Understanding Community Benefits Agreements” was published in the July issue of The Practical Real Estate Lawyer. The other two articles appeared in the Journal of Affordable Housing Law and in the UCLA Journal of Environmental Law and Policy.

The Ninth Edition of “Legal Careers in New York State Government,” prepared by the Government Law Center, was published in 2008 by the New York State Bar Association. This edition was co-authored by Patricia Salkin, Amy Lavine and Michele Monforte of the Government Law Center.

Rose Mary Bailly’s forthcoming article, which will appear in Victimization of the Elderly and Disabled Newsletter, is entitled “Where there is a Will there is a Way - Using a Last Will and Testament for Financial Exploitation.” She gave a presentation at the Union College Academy for Lifelong Learning (UCALL) in October on “Financial Exploitation of the Elderly.”

The November/December issue of the New York Zoning Law and Practice Report included an article written by Amy Lavine, “An Arena for Brooklyn: The Controversy and Litigation Concerning the Atlantic Yards Project.” The article provides an overview of the project, reasons for its support and opposition, and a summary of the litigation that it has so far inspired.

## OFFICERS
- William E. Redmond, Esq., Chair
- John J. Kelliher, Esq., Vice Chair
- B.J. Costello III, Esq., Secretary

## ADVISORY BOARD
- Helen Adams-Keane (Ex Officio) - Albany Law School
- Stephen J. Acquario, Esq. - New York State Association of Counties
- Robert C. Barson, Esq. - Government Lawyer in Residence
- Mary Berry, Esq. - Real Property Bureau, Division of State Counsel, NYS Department of Law
- Jerry Bileski, DVM
- Kenneth W. Bond, Esq. - Squire, Sanders & Dempsey L.L.P.
- Glen Bruening, Esq. - NYS Office of Parks, Recreation and Historic Preservation
- Robert J. Cnaan, Esq.
- William Collins, Esq. - Counsel to the Assembly Majority
- Dr. Leonard Cutler - Siena College
- Hon. Richard A. Dollinger - Barrett, Greisberger, Dollinger, Fletcher & Gordon, LLP
- Jill Dunn, Esq. - The Dunn Law Firm PLLC
- Robert Freeman, Esq. - Committee on Open Government NYS Department of State
- Donna Gilberto, Esq. - NYS Department of Public Service
- Mark Gorgos, Esq. - Caughlin & Gerhart, L.L.P.
- Dean Thomas F. Guernsey (Ex Officio) - Albany Law School
- John Hanna, Esq. - Whiteman, Osterman & Hanna
- Stephen B. Hanse, Esq. - Featherstonbaugh, Wiley & Clyne, LLP
- Hon. Maureen H. Harris - State of New York Public Service Commission, Department of Public Service
- Nancy E. Hoffman, Esq. - CSEA, Local 1000 AFSCME
- Professor Michael J. Hutter - Albany Law School
- Gary Johnson, Esq. - Governor’s Office of Employee Relations
- E. Stewart Jones, Jr., Esq. - E. Stewart Jones Law Firm, PLLC
- Paul Kierzman, Esq. - NYSARC, Inc.
- Hon. James P. King
- Pauline Kinsella, Esq. - New York State Unified Teachers
- Ruth Leisten-Arntz, Esq. - Nixon Peabody LLP
- Hon. Gerard Maney - Albany County Family Court
- Matthew H. Marasasso, Esq. - Pitta, Bishop, Del Giorno & Dreier LLP
- Robert D. McEvoy
- Mary Ann McGinn, Esq.
- Molly McKeown - Higher Education Growth Strategies
- Paul D. Moore
- Frank Munoz, Esq. - Office of Professional Responsibility, NYS Education Department, Office of the Professions
- Hon. William Pelgrin - NYS Office of Cyber Security and Critical Infrastructure Coordination
- Professor David Pratt - Albany Law School
- Clarence D. Rappleyea, Esq. - Public Affairs Venture
- Richard Reed, Esq. - New York State Court of Appeals
- Carl Rosenblum, Esq. - Bond, Schoenbeck & King, PLLC
- Carla Ruggiano, Esq.
- Howard Shapiro, Esq.
- Kenneth L. Shapiro, Esq.
- Lee M. Smith, Esq.
- Amelia Fossi Stern, Esq. - NYS Governor’s Office of Regulatory Reform
- Timothy S. Taylor, Esq. - New York State Unified Teachers
- Hon. Randolph Trecce - U.S. Magistrate Judge, NY Northern District
- Donna E. Wardlaw, Esq. - Wardlaw Associates, P.C.
- Patricia E. Salkin, Associate Dean & Director Government Law Center