



**NYC**

**LAW DEPARTMENT  
ANNUAL REPORT**

**2007**



## Mission

To provide legal representation to the City of New York in the tradition of excellence and dedication, in furtherance of the operation of its government.

## Vision

To be the finest public law office providing the highest quality representation.

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## MESSAGE FROM MAYOR MICHAEL R. BLOOMBERG

In the day-to-day operations of the City of New York — home to 8.25 million people, the nation’s largest regional economy, and a diverse and unique set of civic challenges — the vigorous and skillful application of the rule of law is critically important to keep our City moving forward. Led by Corporation Counsel Michael A. Cardozo, the Law Department’s dedicated staff of 690 lawyers and 850 support professionals help our City to navigate complex legal issues with the utmost competence. This commitment to excellence enables our Administration to pursue groundbreaking and successful projects that make the greatest city in the world an even better place to live, work, and raise a family.

From leading the fight to keep guns out of the hands of criminals, to revitalizing neighborhoods throughout the five boroughs, to harnessing innovation to build a greener, greater New York, our Administration’s bold initiatives help to expand opportunity not only for current New Yorkers but also for future generations of our City’s residents. As the 2007 Annual Report demonstrates, the Law Department’s service continues to be essential in achieving these important goals.

On behalf of all New Yorkers, I extend my sincere appreciation to the attorneys and support staff for their outstanding efforts — and for a job well done.



Michael R. Bloomberg  
Mayor



**INTRODUCTION FROM  
CORPORATION COUNSEL  
MICHAEL A. CARDOZO**



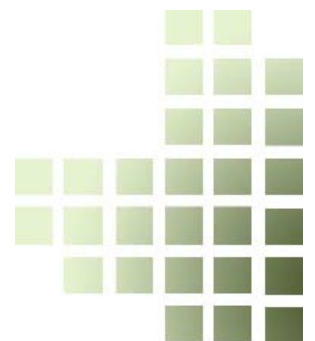
I am pleased to present the New York City Law Department's 2007 Annual Report. Our attorneys and support staff work tirelessly to provide the City and its officials with the highest caliber legal advice and representation. We work with every City agency on projects and cases in all five boroughs.

This report provides an overview of the Law Department's major cases and achievements from the previous year. These accomplishments include two arguments before the U.S. Supreme Court, efforts to reform the judicial selection process, spearheading the legal efforts in the Mayor's initiative against illegal guns, overseeing the issuance of billions of dollars in municipal bonds, and successfully litigating cases that have saved the City millions of dollars.

I hope this report provides a fuller sense of the range of legal issues the City addresses daily. I am proud of our accomplishments, and am honored to work with such a dedicated team.

A handwritten signature in black ink that reads "Michael A. Cardozo". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Michael A. Cardozo  
Corporation Counsel



# OVERVIEW

The New York City Law Department is responsible for all of the legal affairs of New York City. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. Attorneys represent New York City on affirmative and defensive civil litigation, legislative and legal issues, the criminal prosecution of juveniles in Family Court, and Administrative Code enforcement proceedings brought in Criminal Court.

With offices in all five boroughs and Kingston, N.Y., the Law Department handles an active caseload of over 90,000 lawsuits and legal matters each year. In addition to litigation, attorneys draft and review local and state legislation; approve leases, contracts, and financial instruments for the sale of municipal bonds; and negotiate and structure business transactions. Law Department attorneys also provide legal counsel to City officials on a wide range of issues such as immigration, education, judicial selection reform and environmental policy.



Executive Counsel of the New York City Law Department  
Standing from left to right: Paul Rephen, Leonard Koerner, G. Foster Mills and Lawrence Kahn  
Seated from left to right: Muriel Goode-Trufant, Jeffrey Friedlander, Michael Cardozo and Gail Donoghue



## IN THE NEWS

The Law Department is frequently highlighted by major news outlets such as The New York Times, The Associated Press, and local and national television stations. In addition, it publishes a bi-monthly column, "Municipal Affairs," that is featured in the New York Law Journal. Work with the press is coordinated by the Law Department's Media and Communications Office. Below are some of the cases that made the headlines in 2007:

### Albany: Bloomberg Aide Urges Judicial Overhaul

**New York Law Journal** 1/9/2007

### Summit Discusses Options for Judicial Selection Reform

**New York Law Journal** 1/25/2007

### Federal Magistrate Dismisses Suit Against Atlantic Yards Project

**New York Law Journal** 2/26/2007

### Manhattan: Court Allows Park Renovation

**The New York Times** 3/9/2007

### An \$81 Million Settlement Is Cut to Zero

**The  Sun** 5/16/2007

### Celotex Asbestos Trust Ordered to Pay New York City

** Bloomberg** 5/30/2007

### U.S. Supreme Court Supports New York City's Effort to Collect Taxes on Some U.N. Missions

**The New York Times** 6/15/2007

### Court Ruling Backs City On Suing Gun Stores

**The  Sun** 8/16/2007

### Thug Shot Down By Jury In Bid To Sue Police

**DAILY NEWS** 8/29/2007

### Battle Over Calorie-Posting May Widen

**The New York Times** 9/13/2007

### New York State and City Sue Merck Over Vioxx

**The New York Times** 9/18/2007


### City Set to Defend Tuition Payback Policy for Disabled

**New York Law Journal** 10/1/2007

### NYC Seeks Immunity from Sept. 11 Suits

** Associated Press** 10/2/2007

### Appeals Court Says Nyc Can Replace Newsstands, Despite Objections

** Associated Press** 11/9/2007

### New York Pension Funds to Sue Countrywide

** WNYC** wmyc.org  
93.9 fm  
am 820 12/1/2007

### Cabby GPS Suit Tossed To Curb

** NEW YORK POST** 12/29/2007

# **LEGAL DIVISIONS**

**ADMINISTRATIVE LAW**

**AFFIRMATIVE LITIGATION**

**APPEALS**

**COMMERCIAL & REAL ESTATE LITIGATION**

**CONTRACTS & REAL ESTATE**

**ECONOMIC DEVELOPMENT**

**ENVIRONMENTAL LAW**

**FAMILY COURT**

**GENERAL LITIGATION**

**LABOR & EMPLOYMENT LAW**

**LEGAL COUNSEL**

**MUNICIPAL FINANCE**

**PENSIONS**

**SPECIAL FEDERAL LITIGATION**

**TAX & BANKRUPTCY LITIGATION**

**TORT**

**WORKERS' COMPENSATION**



# ADMINISTRATIVE LAW



The Administrative Law Division litigates on behalf of the City on issues relating to laws and regulations that were adopted to protect consumers, promote public health, and enhance the quality of life in New York City. Recent lawsuits have challenged the laws regarding calorie postings on fast-food menu boards, bicycle processions, sidewalk newsstand vendors, and the installation of new customer service equipment in taxicabs.



**Gabriel Taussig**  
Division Chief



## **Uhlfelder v. Weinshall**

A state appeals court affirmed a lower court's decision to grant summary judgment to the City and dismiss a challenge to Local Law 64 of 2003, which provides that newsstands and other "street furniture" will be built and maintained by a single franchisee. This law resulted in the replacement of antiquated newsstands with state-of-the-art structures that beautify city streets, and provide the City with revenues from advertising on the newsstands.

## **Five Borough Bicycle Club v. City of New York**

The Division successfully defended a challenge to the requirement that processions and races consisting of more than 50 bicycles obtain a parade permit from the Police Department. The U.S. District Court denied the plaintiffs' motion for a preliminary injunction to stop the implementation of this requirement, finding that it was a content-neutral measure designed to protect the safety of bicyclists, motorists and pedestrians, and prevent traffic congestion.

## **Alexandre v. Taxi and Limousine Commission**

Attorneys prevented a preliminary injunction that would have stopped new customer service equipment from being installed in taxicabs. The Taxi Workers Alliance and several individual taxicab owners and operators challenged the Taxi and Limousine Commission's requirement that taxicabs be outfitted with the new equipment, including GPS systems and credit card processors. The new equipment would allow for text messaging in emergencies, automated trip recording, passenger monitors for trip tracking, and a credit/debit card payment option. Some cab drivers opposed the change claiming, in part, that it violates their privacy. Cab drivers

staged two strikes in protest. Finding that the plaintiffs were unlikely to succeed on their constitutional claims, the Southern District denied the plaintiffs' motion for a preliminary injunction to prevent the equipment from being installed. The equipment installation continued and was completed for a majority of taxicabs by the end of 2007.

## **Calorie Law – NYS Restaurant Assoc. v. NYC Board of Health**

In cooperation with the New York City Health Department, attorneys defended amendments to the City Health Code that requires certain restaurants to post calorie information on menus and menu boards. The rule was adopted to address obesity rates which have reached epidemic proportions. Although the U.S. District Court struck down the provision that required the posting of calorie amounts by restaurants that voluntarily make the information available, the judge noted that the City could validly adopt a rule mandating all restaurants or a defined group of restaurants, such as chains, to post that calorie information. The City adopted the rule to apply to all restaurants with 15 or more stores as part of its chain, and the new rule has been challenged in a second lawsuit brought by the New York State Restaurant Association.



**Gail Rubin**  
Division Chief

# AFFIRMATIVE LITIGATION



The Affirmative Litigation Division represents the City as plaintiff on a wide range of issues, including claims concerning civil racketeering and fraud, nuisance and restitution, antitrust violations, hazardous products, insurance, and state and federal funding. One of the division’s major initiatives has been to assist in the Mayor’s efforts to eliminate illegal guns by commencing lawsuits against out-of-state gun dealers whose guns turn up on City streets in connection with crime.



## Illegal Guns

Division attorneys have continued the City’s litigation efforts against illegal guns, in collaboration with the Mayor’s Criminal Justice Coordinator, the New York City Police Department, and public service counsel at Pillsbury Winthrop Shaw Pittman. In addition to the City’s lawsuit against 35 handgun manufacturers and distributors – which is currently pending on appeal on the issue of whether the Protection of Lawful Commerce in Arms Act requires dismissal of the City’s suit – the City commenced two lawsuits against 27 out-of-state gun dealers whose guns have been recovered in disproportionate numbers at City crime scenes. A U.S. District Court rejected the gun dealers’ argument that they were not subject to personal jurisdiction in a New York court, and the first case will go to trial on May 27, 2008. By the close of 2007, 15 of the 27 dealers had settled with the City and agreed to the monitoring of their sales practices by a court-appointed Special Master.

## Asbestos Settlement

A federal appeals court upheld nearly all of the City’s claims against the Celotex Asbestos Settlement Trust for asbestos damage in the City’s schools and buildings, and awarded the City \$47.5 million. This brings the total total damages recovered in the case to \$58 million. The Celotex recovery is based on 740 claims that were filed with the Trust. As a result of the Division’s efforts in this and other cases, the City’s total asbestos recoveries top \$130 million – more than any other entity in the nation.

## Cigarette Seller Tax Evasion

Litigation efforts continued against out-of-state internet cigarette sellers and New York cigarette wholesalers who facilitate tax evasion. The City appealed the dismissal of the RICO claims and the public nuisance claims in the internet

cigarette case, and the matter was recently argued in the Court of Appeals for the Second Circuit. Despite the dismissal, this litigation has enabled the Department of Finance to collect millions in cigarette taxes from individual purchasers. In the cigarette wholesaler case, which is based on the Contraband Cigarette Trafficking Act, the City is seeking to recover taxes required to be paid on cigarettes sold on Indian reservations. The motion to dismiss this case is pending.

## Insurance Declaratory Judgments

Efforts continue to force insurers to provide the City with the insurance coverage required by City contracts and permits. Requiring insurers to live up to their policy obligations by providing for the defense of the City frees up Tort Division staff to defend other actions where there is no insurance coverage available. The insurers also pay for claims covered under the policies that would otherwise have to be paid out of the City fisc, and the insurers also pay for the City’s defense costs incurred from the date that the insurer was notified of its obligation to provide coverage. These indemnity and defense cost payments total over \$130 million.

## Utility Litigation

The Division continues to participate in proceedings before state and federal administrative agencies in utility rate matters and investigatory proceedings. Matters this year have included the New York State Public Service Commission proceeding involving Con Edison’s 2006 Long Island City blackout; electric, steam and gas rate matters; and a \$5-million dollar settlement with Con Edison on a claim involving overpayment of electric bills for the Department of Transportation’s street and traffic lighting.

# APPEALS

The Appeals Division is responsible for nearly all appeals by the City. It files approximately 700 appellate briefs annually. Recent U.S. Supreme Court cases include a lawsuit against India and Mongolia for property tax arrears and a case addressing education reimbursement for special needs children. The Division also submitted an amicus brief regarding how home health care aides are treated under the Fair Labor Standards Act.



Leonard Koerner  
Division Chief

## City of New York v. Permanent Missions of India and Mongolia

The U.S. Supreme Court ruled 7-2 in the City's favor and determined that U.S. courts have jurisdiction to resolve a tax dispute between the City and two sovereign nations. This ruling allowed the City to proceed to trial in district court and seek payment of unpaid real property liens from the governments of India and Mongolia. The City has attempted to collect over \$18 million in property taxes on buildings that those countries use to house staff of their UN missions. Attorneys from several divisions collaborated with Appeals attorneys on this case including the Executive, Affirmative Litigation, Legal Counsel, and Tax and Bankruptcy Litigation Divisions.

## Board of Education v. Tom F.

Attorneys appeared before the U.S. Supreme Court on October 1, 2007, the first day of its fall term, to argue a complex education case. The federal Individuals with Disabilities Education Act ensures a "free appropriate public education" for disabled children, and allows parents to seek reimbursement of education costs if public schools cannot provide appropriate services. The plaintiff alleged that parents of special education children have a right to seek City reimbursement without initially trying public school. The City disagreed, noting that parents should work with the system first. Justice Kennedy recused himself and the court was split 4 - 4. This let stand a previous appeals court ruling for the plaintiff. However, the decision will not guide all U.S. public schools. Pursuant to the rules of the U.S. Supreme Court, a split decision has no precedential value and is issued without a written opinion.

## Long Island Care at Home v. Coke

The Division submitted an amicus brief to the U.S. Supreme Court for this case which examined whether home health aides employed by third parties are covered by the federal Fair Labor Standards Act. The Court unanimously upheld the City's position that the home health aides are exempt from the Act's minimum wage and overtime requirements. This win will save the City at least \$250 million per year and prevented a reduction by the State in allowable benefit hours.

## Uhlfelder v. Weinshall

The Appellate Division, First Department upheld Local Law 64 governing the installation and maintenance of newsstands and placement of advertising, by rejecting plaintiffs' First Amendment, due process, equal protection, and environmental law challenges. The ruling allows the City to continue its replacement of antiquated newsstands with visually appealing, functional, state-of-the-art structures that are owned by a single franchisee from which the current operators will continue to conduct business.



**Eric Rundbaken**  
Division Chief

# COMMERCIAL & REAL ESTATE LITIGATION



The Commercial & Real Estate Litigation Division represents the interests of the City and related entities in diverse contract and real estate matters. In the past year, Division attorneys facilitated vital infrastructure projects for the reconstruction of Lower Manhattan by preventing contractors from successfully challenging their implementation in court. The Division also assisted in the settlement of a protracted dispute over waterfront property in Battery Park, restored the City to possession of a marina in Queens after a 16-year legal battle, and negotiated a settlement to facilitate sorely-needed renovation of a City-owned building over the challenge of a day care center which occupied space in the premises.



## Downtown Redevelopment Litigation

The Division achieved outstanding results in two matters important to the expeditious redevelopment of Lower Manhattan. *JLJ IV Enterprises, Inc. v. Michael Bloomberg, et al.* involved a contract to replace 150-year old water mains in the Fulton Street area. Attorneys successfully argued against an injunction in both Supreme Court and before an appellate justice, thereby allowing the work to be performed by a contractor with an existing contract without requiring a new round of bidding. In an earlier proceeding, the same contractor sought to prevent the opening of bids on a project for the repair of streets near the World Trade Center site. The Division defeated the contractor’s request for a temporary restraining order, and, after we submitted our papers defending the bidding method employed as lawful under the Coordinated Construction Act for Lower Manhattan, the contractor withdrew its action, allowing the project to proceed.

## WPA Partners, LLC v. Port Imperial Ferry Corp.

Attorneys worked with the Economic Development Corp. to resolve two actions relating to Pier A in Battery Park, clearing the way for the development of the pier, which had been planned since 1997. EDC had sought to terminate the developer’s interest in Pier A in 2001 after work had been halted due to the developer’s financial difficulties. The developer sued for declaratory and injunctive relief, and later commenced a second action seeking \$10 million, based upon the alleged unlawful use of the pier by the City as a temporary commuter ferry landing after the attacks of September 11, 2001. Although previous settlement efforts were unsuccessful, a favorable settlement was concluded in June 2007, resolving all the litigation and requiring the developer to surrender its interest in the pier.

## The City of New York v. Schmitt

After a 16-year legal battle, which, among other numerous proceedings, included a six-year bench trial in federal district court and an appeal to the Second Circuit Court of Appeals, the City obtained possession of commercial property in Broad Channel, Queens – part of which had been leased for use as a marina. Following rulings that the tenants were mere month-to-month tenants and had squatted on a second large parcel of waterfront property (which was partially owned by the City and partially included in the Gateway National Park), the Division brought summary proceedings for eviction. The state appellate courts awarded the City judgments of possession as well as money judgments, and the Schmitts were evicted from the property.

## Children’s Liberation Day Care Center, Inc. v. Mattingly

The Division achieved a favorable settlement of an action brought by a day care center whose contract had been terminated by the City, permitting the City to renovate the space it had occupied as part of a large-scale renovation of the entire building, a former school. The renovations would not have been possible to accomplish safely with children in the premises. Although the Administration for Children’s Services had offered alternative space to the center, it had refused to vacate, and commenced litigation in state and federal courts. The settlement permits the day care center to remain on the premises until June 30, 2008, but requires it to vacate at that time, allowing the City time to perform preliminary work and to proceed with the building’s reconstruction.

# CONTRACTS & REAL ESTATE



The Contracts & Real Estate Division counsels City agencies on transactional matters such as leases and contracts, and acts as transactional counsel on special projects at the request of the Mayor's Office and City agencies. Attorneys not only negotiate and draft contracts, but also advise on processes required to be followed to enter into such agreements. In 2007, the Division helped draft and negotiate the City's pay-to-play legislation, worked on the Mayor's congestion pricing proposal, helped negotiate the Atlantic Yards project, and helped draft the documents necessary for the City's Million Trees initiative.



Steven Stein Cushman  
Division Chief



## Pay-to-Play Legislation – Local Law 34 of 2007

Our attorneys helped draft and negotiate changes to the campaign finance laws of the City of New York enacted as Local Law 34 of 2007. Local Law 34 imposes new restrictions on political contributions to candidates for election to municipal offices from a wide range of donors that have business dealings with the City. Division attorneys have worked with the Mayor's Office to draft directives and standard contract documents to enable the City to implement the law, and we have also been counseling City agencies on the law's application.

## Congestion Pricing

The Division has worked closely with the Mayor's Office and the Department of Transportation on the Mayor's congestion pricing proposal which, if approved by the state legislature, is currently scheduled to take effect in March 2009. Attorneys are assisting in the procurement of one or more contractors who will design, build, operate and maintain the congestion pricing system. The Division is also assisting the Industrial Development Agency in negotiating a contract for project management of the Congestion Mitigation Implementation Plan.

## Atlantic Yards

Together with the Economic Development Division, the Division has worked on the proposed development at the Atlantic Yards site in Brooklyn. The Atlantic Yards development includes a new home for the NBA Nets; affordable, middle-income and market-rate housing; commercial offices; retail establishments; and a hotel, as well as open space. Attorneys have completed the negotiation and drafting of a funding agreement with the Empire State Development Corporation which will provide \$200 million of combined city and state funding to advance the project.

## Million Trees NYC

Division attorneys are working with the Parks Department on Million Trees NYC, a program to plant and maintain one million new trees in New York City on public and private property. We are assisting in the drafting of a bid for the procurement of the growing of the trees, the negotiation of a Memorandum of Understanding with the New York Restoration Project regarding their private planning and fundraising efforts, and analysis of prevailing wage issues.

# ECONOMIC DEVELOPMENT



Leonard M. Wasserman  
Division Chief

The Economic Development Division serves as business counsel for the City and structures, negotiates and drafts documentation for projects that enhance the City's economy. The Division works closely with City Hall, the New York City Economic Development Corp. and various City agencies. Recently, attorneys helped to establish the legal framework for reconstructing the World Trade Center, negotiated the funding for Atlantic Yards, and worked to reactivate the Staten Island Railway.

## World Trade Center Reconstruction

The Division coordinated a series of land swaps with the Port Authority to further the City's rebuilding efforts at the World Trade Center Site. The closing of these transactions represents the culmination of several years of effort – and a significant step forward in the revitalization and redevelopment of the WTC site as a mixed-use center of commerce and culture, with a memorial at its heart. In addition, along with EDC and the Department of Citywide Administrative Services, the Division finalized the terms of an option and lease pursuant to which the City will grant Silverstein Properties, Inc., an option to rent one-third of Tower 4 at the World Trade Center Site to a City entity. The grant of this option, and the potential lease of space, was an important City contribution to structuring the arrangements whereby Silverstein agreed to go forward with site's reconstruction.

## Atlantic Yards

Division attorneys played a major role in moving the Atlantic Yards project towards realization by successfully closing a transaction in which the City satisfied its promise to make \$100 million available for the project. The project's key focus is the development of the Arena in downtown Brooklyn. Attorneys incentivized the developer by structuring the transaction so that failure to satisfy commitments would result in significant damages for breach. This project is expected to generate thousands of jobs for City residents and hundreds of millions of dollars in tax receipts. It will also finally bring back major league sports to Brooklyn after a 50-year absence.

## Redevelopment of Downtown Brooklyn

Also in Downtown Brooklyn, the Division was instrumental in repositioning the tired Albee Square Mall Project. By applying sophisticated transactional lawyering skills to what was essentially a "work-out" of a troubled asset, the Division was able to take advantage of a private deal to reconfigure a project which contributed very little by way of tax receipts and jobs to the City into what promises to become a major resource of affordable housing and retail activity.

## Staten Island Railroad Reactivation

In April 2007, Mayor Bloomberg officially reactivated the Staten Island Railroad. The 8-mile railway connects Staten Island to the national rail freight network, and had been dormant for 17 years. This project, a joint venture between the City and the Port Authority, is a key component of the City's historic Solid Waste Management Plan. Staten Island became the first borough to achieve this environmentally-sound transport system. The reactivation, which created more than 780 construction jobs and is estimated to result in 330 new permanent jobs, is a tremendous boost to the Staten Island economy by providing much-needed direct rail access to the New York Container Terminal at Howland Hook and several of Staten Island's largest businesses. The project is expected to reduce truck traffic on Staten Island by more than 100,000 trips per year, and the total economic impact of the reactivation on the City's economy is anticipated to be more than \$200 million per year by 2010.

# ENVIRONMENTAL LAW



The Environmental Law Division represents and advises the City in environmental and land use matters involving the drinking water supply, wastewater treatment, solid waste management, energy sources, natural resources, and environmental review of City initiatives and private development projects. The Division is leading a nationwide suit against gasoline refiners for contaminating groundwater wells in the City. The Division represents the City in numerous lawsuits, joined by other governments and environmental organizations, to challenge the federal government's failure to regulate greenhouse gas emissions from sources such as motor vehicles and power plants. Division attorneys are also assisting the Mayor's Office in connection with implementation of the PlaNYC initiatives.



Susan Kath  
Division Chief



## City of New York, et al. v. U.S. Environmental Protection Agency (or "Massachusetts v. EPA")

The City joined Attorneys General from 12 states and several environmental organizations to challenge the Environmental Protection Agency's determination that it did not have the authority under the Clean Air Act to regulate greenhouse gas emissions from motor vehicles. In April 2007, the U.S. Supreme Court held that the City and the other plaintiffs had standing to pursue their challenge to EPA's determination and that EPA has the authority under the Clean Air Act to regulate greenhouse gases. Division attorneys continue to work with the other plaintiffs to ensure that EPA complies with the Supreme Court's decision, which should lead to new regulations to regulate greenhouse gas emissions from motor vehicles.

## City of New York, et al. v. NHTSA, U.S. DOT

The City joined California, several other states, the District of Columbia and several national environmental organizations to challenge the National Highway Traffic Safety Administration's (NHTSA's) rules for corporate average fuel economy (CAFÉ) standards for light trucks for Model Years 2008 to 2011. The City challenged the rules on numerous grounds, including NHTSA's failure to look at the greenhouse gas implications of the rulemaking in the course of the environmental review. In November 2007, the Ninth Circuit Court of Appeals remanded the CAFÉ standards back to NHTSA, holding that the standards were arbitrary and capricious, and violated the Energy Policy and Conservation Act and the National Environmental Policy Act. The Court required that an Environmental Impact Statement be prepared to address these significant environmental issues.

## PlaNYC

The Division worked on the implementation of PlaNYC – the City's ambitious plan for a greener and more sustainable city. Attorneys have continued to offer legal counseling and advice in connection with plan initiatives such as congestion pricing,

brownfields, water quality, taxi cab and black car miles-per-gallon standards, ultra-low sulfur diesel for public and private ferries and other greenhouse gas reduction strategies.

## Filtration Avoidance Agreement Water Supply

Attorneys successfully negotiated the issuance of a 10-year "Filtration Avoidance Determination" (FAD) by EPA for the City's Catskill/Delaware drinking water supply system. This significant agreement allows the City to continue to use the Catskill and Delaware water supply systems (which together provide some 90 % of the City's drinking water) without filtration. The FAD also acknowledges the quality of New York City's drinking water system by doubling the length of previous FADs issued to the City. New York City's drinking water supply is the largest in the country that meets the stringent federal watershed protection and filtration avoidance criteria. The successful negotiation of this agreement saved the City an estimated \$4-10 billion in capital expenses that would have been needed to build a filtration system plus a half a billion per year in operating costs.

## Washington Square Park

Division attorneys defended five lawsuits challenging the renovations to Washington Square Park. In December 2007, the court determined that the New York City Department of Parks and Recreation could proceed with its long-standing plans. The Court found that the Parks Department had considered all of the potential environmental impacts of the renovation, including to natural resources in the park, and that the renovations would not result in any significant adverse impacts, allowing the construction to proceed.

# FAMILY COURT



Laurence Busching  
Division Chief

The Family Court Division is divided into two subunits – the Juvenile Prosecution Unit and the Child Support Unit. The Juvenile Prosecution Unit, which houses the Major Case Unit and the Sex Crimes Unit, prosecutes youths accused of committing crimes. Attorneys investigate cases and conduct suppression hearings and trials before Family Court judges. In cases where the courts find guilt, attorneys then seek case dispositions that balance juveniles’ needs and best interests with public safety concerns. Attorneys handle a variety of cases, including assaults, robberies, weapons possession, drug offenses, sex offenses and homicides. A 24-hour on-call system allows an immediate response to the most serious cases. The Child Support Unit represents out-of-state petitioners seeking child support from New York City residents. Attorneys in the Child Support Unit have been able to obtain child support payments and arrears for thousands of children living in the U.S. and abroad.

## 11-year-old in Coma After Attack

In April 2007, 11-year-old Tevin W. was arrested on first degree assault and weapons possession charges for attacking another 11-year old boy and plunging a stick in his head, causing life-threatening brain injuries. The victim was rushed to Kings County Hospital but never regained consciousness and remains in a vegetative state. Division attorneys were involved in this case from start to finish, and immediately went to the police precinct to help direct the investigation and interview witnesses. After trial, Tevin W. was placed in a private residential facility for 18 months to receive rehabilitative services.

## “Drano” Explosives Thrown in Queens Playground

In July 2007, attorneys filed petitions against 12-year old respondents Rodolfo M. and David F. for throwing explosive devices containing Drano into a crowded playground. Several people sustained burns, including two infants – a 4 month old and a 6 month old. The victims were rushed to nearby hospitals. The juveniles were arraigned on first degree weapons possession, second degree assault charges, and second degree reckless endangerment. Both respondents were paroled to their parents, received strict curfews, and were directed to cooperate with the Intensive Community Monitoring program – an alternative to detention. Both respondents successfully cooperated with the alternative to detention program and recommendations were given for their probation to continue.

## Alternative Sentencing Initiative Successes

When delinquent youth are not a significant risk to public safety, the division strives to help them receive rehabilitative services from community-based organizations rather than upstate residential facilities.

Fourteen-year-old Rosheema G. has a long history of aggressive behavior and was arrested for a school fight. In part because she was beyond her mother’s control, placement options were explored. However, none of the facilities would accept Rosheema because of her high aggression level. Initially, a program far from her Bronx home was suggested. Division social workers instead referred her to the local Bronx Juvenile Accountability Court – a program that provides comprehensive mental health services, educational advocacy and court supervision. A year later, Rosheema was compliant with all aspects of the program and was being homeschooled while she awaited an evaluation to enroll in day school.

## \$100,000 in Child Support Secured from Professional Boxer

Attorneys secured child support arrears of over \$100,000 from a successful professional boxer for a Queens mother and child. Division attorneys, in collaboration with the federal Office of Child Support Enforcement, the Internal Revenue Service and the NYC Sheriff’s Office, served a property execution on the NYS Athletic Commission in June 2007 against the proceeds of a boxing match that the father had recently fought in Madison Square Garden. Although the IRS contacted the Athletic Commission first to collect on taxes owed, they graciously allowed the City’s levy to take first position upon learning that it was for child support.



# GENERAL LITIGATION



The General Litigation Division defends the City and its agencies in lawsuits challenging policies and practices concerning important programs in such varied fields as education, health care, public assistance benefits, prison conditions, foster care and election law. Many of these cases are brought as class actions in federal court, and present significant and often novel issues of statutory and constitutional interpretation.



**Thomas Crane**  
Division Chief



## McCain v. Bloomberg

This lawsuit challenges the adequacy of the City's temporary emergency shelter program for homeless families with children. Over the years, the Court has issued over 50 orders touching on virtually every aspect of the program. In recent years, the City has implemented many reforms in its program and has moved thousands of families from shelter into permanent housing. As a result, in 2006 the City moved to dismiss the case on the grounds that the past program deficiencies have been remedied. The motion is presently in the latter stages of discovery and will be before the court in the months to come.

## People United for Children v. City of New York

This federal court class-action lawsuit alleged that the policies of the New York City Agency for Children's Services discriminated against African-American parents. Through discovery conducted during litigation, the plaintiffs came to recognize that the actions and programs implemented by ACS in recent years have had a positive effect on the families involved. As a result, the case was settled with modest programmatic modifications designed to improve communications and help resolve complaints.

## Monaco v. Stone

This class action in federal court involved a challenge to the practices of hospitals, including the City's Health and Hospitals Corporation, relating to the involuntary commitment of mentally ill individuals. Such actions often present clinicians with difficult determinations as to whether individuals present a danger to themselves or others. The City settled the claims concerning the hospital by agreeing to change certain practices regarding the evaluation of patients for involuntary commitment.

## Benjamin v. Horn

Reputedly the longest-running case in the Southern District, this lawsuit commenced in 1975. A class of pretrial detainees incarcerated by the City challenged its confinement conditions. In 1979, the City entered into a 52-page consent decree covering 30 areas of the City's jail system. Over the years (and since the passage of the Prison Litigation Reform Act in 1995), the City has filed numerous motions to vacate the consent decree. Those motions have been granted in substantial part, but some areas of oversight continue pursuant to judicial findings of continuing constitutional violations. In 2007, the Division continued its efforts to eliminate the few remaining orders.

## DD v. Department of Education

This is a class action brought in federal court under the Individuals with Disabilities Education Act and Americans with Disabilities Act. Plaintiffs claimed that the City's Department of Education deprived pre-school children with disabilities of the adequate and timely educational services to which they were entitled. The case was settled in 2007 with the Department of Education's agreement to increase efforts to identify and solve potential obstacles to the delivery of services and to work with the State to better anticipate and address capacity and service needs.

# LABOR & EMPLOYMENT LAW



Georgia Pestana  
Division Chief

The Labor & Employment Law Division represents the City as employer of over a quarter-million workers. The Division handles a variety of matters including First Amendment retaliation; gender, race, age and disability discrimination; and civil service law issues. Most trials are conducted in federal court, and attorneys are responsible for their cases from commencement to resolution. The Division has successfully litigated cases brought against large City agencies, such as the Department of Education and the NYPD, as well as lawsuits brought against high-ranking City officials.

## Transportation Workers Union v. City of New York

Division attorneys successfully persuaded the Court to deny the application by the Transit Workers Union to restore its automatic collection of union dues from members' paychecks. The court sided with the City in its argument that the "dues check-off" privilege, which had been revoked as a penalty for the illegal strike the union staged in 2005, should only be reinstated if the union's entire board recognizes it does not have the right to strike. In the last 40 years, TWU Local 100 has illegally struck three times and made frequent threats to strike. In addition to making it extremely difficult for people to travel throughout the City, these strikes cost the City millions of dollars.

## Department of Justice v. City of New York

The Division is handling a lawsuit filed by the U.S. Department of Justice against the City alleging that the hiring examinations used by the Fire Department discriminate against blacks and Hispanics and a companion lawsuit filed by the Vulcan Society, a fraternal organization of black firefighters. The FDNY has dramatically increased the number of black and Hispanic candidates who sat for the most recent exam through extensive outreach and recruitment efforts. In fact, approximately 33% of the candidates passing the most-recent exam with scores high enough to be appointed are minorities.

## Almontaser v. Department of Education

Attorneys successfully opposed an attempt by Debbie Almontaser, the former principal of the Khalil Gibran International Academy, to force the Department of Education

to reinstate her as principal of the Academy. Almontaser alleged her first amendment rights were violated and claimed she was forced to resign after comments she made to a reporter regarding the definition of "intifada."

## Beyar v. FDNY

The division successfully defended the City from a \$10 million lawsuit brought against the Fire Department. Former firefighter Judith Beyar's claims of gender discrimination and a hostile work environment were entirely dismissed by a five-woman, three-man jury.

## Plummer v. Quinn

Division attorneys obtained dismissal of race discrimination claims brought by Viola Plummer, the former chief of staff to Councilman Charles Barron. Plummer claimed that she was unlawfully terminated due to her race and in violation of her First Amendment rights. The City contends that she was disruptive during a City Council hearing during which she participated in a loud protest and made threatening remarks against another councilman. The trial on the First Amendment claims is expected in 2008.

## Wright v. Stern

After nearly nine years of litigation, Division attorneys reached a proposed settlement with approximately 3,500 African-American employees of the Department of Parks and Recreation who claimed that they were discriminated and retaliated against in promotion and compensation.

# LEGAL COUNSEL



The Legal Counsel Division advises the Mayor, other elected officials and City agencies on a wide range of municipal law issues, and drafts city and state legislation. Recent efforts have resulted in the adoption of campaign finance reform legislation, the recodification of the Building Code, major efforts to implement PlaNYC and tax-related legislation.



**Stephen Louis**  
Division Chief



## Campaign Finance Reform

Division attorneys worked with the Mayor’s Office, the City Council and the Campaign Finance Board to prepare Local Law 34, which limits campaign contributions from lobbyists and those doing business with the City. This significant “pay-to-play” reform is the latest in a series of campaign finance, lobbying and conflict-of-interest legislation that the Division has handled. Division attorneys continue to work with City agencies and the Mayor’s Office of Contract Services to ensure proper compliance with the law.

## Building Code Recodification

Virtually every attorney in the Division has worked on the preparation and enactment of the “New NYC Construction Codes” – the first major overhaul of the City’s Building Code in 40 years. The Codes include major administrative initiatives to improve enforcement and oversight by the Buildings Department. Division attorneys also started work on a new Fire Code that will complement the Construction Codes.

## PlaNYC

Division attorneys worked with the Mayor’s Office of Long Term Planning and Sustainability and other City agencies on significant legislation that will lead to major progress in the City’s sustainability efforts. Attorneys drafted a state bill combining many elements of PlaNYC – the Mayor’s ambitious plan to improve the City’s sustainability – including new

programs for congestion pricing, brownfields and energy. While that bill did not pass, attorneys worked with the Mayor’s Office and the Governor’s Office to ensure enactment of a law creating the Traffic Congestion Mitigation Commission and setting a timetable for adoption of a congestion pricing plan. Division attorneys also worked with the Mayor’s Office and the City Council on local legislation requiring the City to use its best efforts to achieve citywide emissions reduction targets by implementing the applicable initiatives included in PlaNYC, and continue to advise City agencies on the applicability of the Green Buildings Law.

## Tax Lien Sales

The Division frequently works on tax-related legislation. For example, Division attorneys drafted Local Law 68, which revived and expanded the City’s authority to sell tax liens, which had expired. The law also expanded the City’s authority to sell liens by authorizing the sale of stand-alone water and sewer liens, an expansion which avoided the need for a substantial mid-year rate increase for City water users.

# MUNICIPAL FINANCE



**Albert Moncure**  
Division Chief

The Municipal Finance Division serves as counsel to the City on all bond transactions. Funds raised from issuing bonds have been used on projects ranging from building new baseball stadiums to the Hudson Yards infrastructure development plan to new school construction. Each year, the division oversees billions of dollars in financial transactions.

## **Bond Issuance for Infrastructure Improvements**

The Division represented the City in connection with the issuance of \$2.7 billion general obligation bonds to fund improvements to the City's capital infrastructure such as roads, bridges and buildings. In addition, Division attorneys represented the City in connection with the issuance of \$1.87 billion general obligation bonds to refinance previously issued higher interest cost debt in a manner similar to mortgage refinancings. This resulted in savings to the City valued at issuance of the refunding bonds of over \$105 million.

## **Queens West Affordable Housing Initiative**

In collaboration with the Economic Development Division, attorneys are advising the NYC Economic Development Corporation on financing for a 5,000 unit Queens West housing development. Sixty percent of the units will be earmarked for affordable housing. In order to reduce construction costs, and thus the rent in the housing development, the division is working on structuring tax exempt bond financing.

## **Water Board Collection Enforcement Initiatives**

Division attorneys assisted the New York City Water Board in connection with legislative and administrative collection enforcement initiatives, which avoided an 18 percent mid-year rate increase. This ensures that future rate increases will be within forecast amounts. This will substantially reduce the

Board's Accounts Receivable balance. Attorneys assisted the Legal Counsel Division in drafting new stand-alone water lien sale legislation which was enacted by the City Council in December. The new law allows the Board to sell liens on two to four family residences, co-ops and condominiums, and multi-family residential properties without a real property tax delinquency on the property. Under prior law, the water lien on such properties could only be sold if there was also a real estate tax lien on the property.

Division attorneys also assisted the Board in drafting an amended water shut-off rule which streamlines service termination procedures and the establishment of the Payment Incentive Program. The program is designed to assist residential homeowners settle overdue water and sewer charges. Through the Payment Incentive Program late fees can be eliminated and utility charges capped at 150% of average daily consumption for a single family residence or \$2 per day. By participating in the program, homeowners can also prevent water shut-off or a lien sale.

# PENSIONS



The Pensions Division defends the City's five pension funds in litigation challenging individual and class-wide benefit determinations, and provides pension-related counseling and advice to City agencies. With over 600,000 active and retired members and assets exceeding \$90 billion, the City funds are cumulatively one of the largest public pension funds in the country. Division attorneys draft and comment on proposed legislation, and assist in the implementation of new laws. In the past few years, the attorneys have provided extensive assistance in the implementation of laws designed to provide accident retirement benefits and death benefits to City employees who worked at the WTC site. In 2007, with outside counsel's assistance, the Division recovered nearly \$15 million in securities fraud actions, and has been actively investigating companies involved in the sub-prime mortgage scandal.



**Inga Van Eysden**  
Division Chief



## **New York City Pension Funds v. Prudential**

In early 2007, Division attorneys successfully negotiated a settlement of \$7.5 million with Prudential in an action to recover losses allegedly caused by the defendants' wrongdoing in setting up, and failing to make accurate disclosures concerning, mortgage receivables that were inadequate to secure the value of the collateralized mortgage obligations.

## **New York City Pension Funds v. Adelphia**

In the spring and summer of 2007, the funds accepted two offers of more than \$6 million to settle some of the claims brought against defendants in this securities fraud action. Settlement discussions with the remaining defendants continue.

## **New York City Pension Funds v. Countrywide Financial Corp.**

In November 2007, the New York City Pension Funds and the New York State Comptroller were named lead plaintiffs in a class-action lawsuit filed against Countrywide Financial Corp., one of the nation's largest mortgage lenders. The lawsuit alleges that Countrywide engaged in improper lending practices that led to significant losses by the city and state pension funds.

## **Weingarten v. Board of Trustees of the Teachers' Retirement System**

The City settled this lawsuit which challenged the system's calculation of pension benefits under the teachers' 20-year pension plan. The \$160 million settlement, which could

potentially affect 30,00 retirees and 5,000 active members, is to be paid out over a 10-year period. Settlement details continue to be worked out by the parties.

## **Teacher Retirement Plans**

The Division is drafting state legislation to permit current Tier 2 and Tier 4 teachers and employees in certain related positions to retire with an unreduced benefit at age 55 with 25 years of service, and to permit persons hired in those positions after the legislation's enactment to receive such benefit at age 55 with 27 years of service.

## **Healy v. Board of Trustees of the Fire Pension Fund, et. al**

Attorneys succeeded in obtaining the dismissal and/or withdrawal of almost 25 cases brought in federal district court against the Fire Department's Pension Fund alleging discrimination in the denial of disability retirement pensions.

## **Nager II v. Teachers' Retirement System**

In September 2007, the Division settled a class action involving the inclusion of "per session" earnings in calculating pension benefits. As a result, the pensions of approximately 13,000 retired teachers will be recalculated to take into account "per session" earnings.

# SPECIAL FEDERAL LITIGATION



**Muriel Goode-Trufant**  
Division Chief

The Special Federal Litigation Division defends the City in civil rights cases brought in federal court against law enforcement officials, including police and correction officers, and prosecutors. Claims often challenge a judgment made by an individual police or correction officer in performing his or her duties; the policies of the Police Department as to how best to secure public safety; or of the Department of Correction regarding the care and custody of individuals detained by the criminal justice system. Pending cases include a wide range of factual circumstances from the policing of large-scale public events to the justification for an individual arrest. The legal principles which govern the outcomes are part of a rapidly developing body of constitutional law set forth in the decisions of the U.S. Supreme Court.

## **Green v. City of New York, et al.**

Division attorneys successfully moved for a reversal of a \$400,000 jury award and obtained a judgment in favor of the City. The plaintiff had Lou Gehrig's disease and no written "do not resuscitate" instructions. When his breathing apparatus failed, the health aide called 911. However, after FDNY and EMS arrived, Green's wife did not want him taken to the hospital, even though he could not breathe. The emergency workers took him to the hospital despite her objections. Green later thanked his health aide for saving his life by calling 911. Thereafter, Green sued claiming a violation of the Americans with Disabilities Act for being removed to the hospital in spite of his unclear request to remain at home. On post-trial motions, the Court reversed the jury's decision.

## **McBean/Ramos v. City of New York, et al.**

A partial settlement was achieved in this class-action lawsuit concerning challenges to non-felony strip searches during intake, institutional searches, searches prior to court appearances and visits, and searches upon facility transfers at the Department of Correction. While motion practice continues as to the viability of claims concerning institutional searches, searches prior to court appearances and visits and searches upon facility transfers, the City agreed to an injunction that prohibits intake strip searches of non-felony detainees without reasonable suspicion that a detainee possesses drugs, weapons or other contraband. The Court appointed a Special Master to monitor compliance with the injunction.

## **Wise/Brown v. City of New York, et al.**

This case concerns the alleged enforcement of a portion of the loitering statute, New York Penal Law 240.35(1), despite such a law having been found unconstitutional by the U.S.

Court of Appeals for the Second Circuit more than ten years ago. By stipulation, the City defendants agreed not to enforce the statute at issue. Plaintiffs moved separately for class certification and for contempt. The motion for contempt was based upon arrests for violations of the loitering statute after the City stipulated not to make arrests for such violations. The Court declined to hold the City in civil contempt for arrests made after June 23, 2005, finding that the City was striving to comply with the Court's Order not to make such arrests. After the District Court certified various classes, including a defendant class consisting of all political sub-divisions and all law enforcement/prosecutorial policy-making officials in New York State with authority to arrest, charge or prosecute a person with a violation under New York Penal law, the Second Circuit granted the City leave to appeal the District Court's decision on class certification in its entirety.

## **Demonstration Cases**

Division attorneys are handling approximately 100 cases related to demonstrations, including three class action lawsuits. Approximately 70 of these cases relate to demonstrations occurring during the 2004 Republican National Convention. Most of the remaining cases concern pre-RNC demonstrations, including large protests during the 2002 World Economic Forum and the 2003 U.S. Out of Iraq March.

# TAX & BANKRUPTCY LITIGATION



The Tax & Bankruptcy Litigation Division protects the City's fiscal health by defending property tax assessments and improves the City residents' quality of life by acquiring property to create parks, building affordable housing, and constructing libraries. Division attorneys litigate various tax issues and defend the City in bankruptcy proceedings and property acquisition matters.



**Rita D. Dumain**  
Division Chief



## Land Acquisitions

The division handled the acquisition of over 250 properties in Staten Island in furtherance of the New Creek Bluebelt System through eminent domain and negotiated transactions. These acquisitions will help facilitate DEP's creative approach to controlling the chronic street flooding on Staten Island's south shore, the last large unsewered part of New York City. Over the past 10-plus years, the City has used its powers of eminent domain to acquire more than 249 acres of land for DEP's Bluebelt System, which preserves and restores streams, ponds and other wetland areas for storm water management, and alleviates the need for sewers. It has been a resounding success, and is anticipated that the City will acquire by eminent domain an additional 197 acres of land in the upcoming years for other Bluebelts on Staten Island.

The Division also continued its acquisition of properties needed for Hudson Yards. The project is an unusually large collaborative effort involving the City, the MTA and numerous other city and state agencies for a public transit-oriented redevelopment of over 300 acres on the far West Side of Midtown Manhattan. The development includes extending the No. 7 subway line as well as creating a new public boulevard and over 24 acres of new park areas.

## Advancing Goals of City Agencies in Bankruptcy Court

To promote and preserve the creation of safe, affordable housing to low-income earners, Division attorneys continued to work closely with the Department of Housing Preservation and Development on bankruptcy cases filed by owners of

low-income housing developments and large apartment buildings. These properties are typically beset with widespread disrepair and neglect reflected in numerous City Housing Code violations ranging from peeling paint and plaster to non-functioning elevators. Over the past year, attorneys have worked to require that debtor entities, in the course of any reorganization efforts, also provide for meeting their obligations under the housing code by abating all outstanding violations.

When these properties are sold, Division attorneys have ensured that the City successfully leverages these cases and demands that any prospective new ownership is committed to providing safe and affordable housing.

## Tax Law

The Division prevailed at the Tax Appeals Tribunal in a series of cases which upheld the imposition of the Unincorporated Business Tax on various payments to partners, in a variety of partnership settings, for services or use of capital. As a result of the Division's success in these cases, a body of highly favorable decisional law has been established which will benefit the City's fisc.



Fay Leoussis  
Division Chief

This is the office's largest division, with over 200 attorneys and 200 support staff who handle 6,000 new lawsuits annually. High-profile cases handled by the Division include lawsuits resulting from the World Trade Center attacks, the Deutsche Bank fire, upstate floods, early intervention, and the Staten Island Ferry accident. The Division's subunits focus on special issues such as risk management, catastrophic injuries, and toxic torts.

### Case Backlog and Tort Payouts

In striving to settle meritorious claims faster, the Division continued to reduce the City's case backlog. In FY 2007, pending tort cases were reduced by 7%. However, tort payouts increased in FY 2007 for the first time in two years. Although there was a 12% increase in tort payouts, this was primarily due to five unusually high payouts, including two verdicts totaling \$21.7 million and three settlements equaling \$20 million.

### World Trade Center Litigation

Thousands of workers who assisted in the recovery and debris removal following the terrorist attacks on September 11th have sued the City and private contractors claiming they were injured due to the lack of proper respiratory protection. The City and contractors' appealed the Southern District Court's denial of their motion to dismiss the suit on grounds of immunity. Although the Second Circuit has allowed discovery to proceed, the court did not determine whether the City and contractors can assert immunity.

### Staten Island Ferry

Division attorneys, with assistance from outside counsel, continued to settle lawsuits brought as a result of the October 2003 Staten Island Ferry accident. By the end of 2007, over 120 claims had been settled for \$27.6 million. Sixty claims remain to be settled.

### Deutsche Bank Fire

In August 2007, a fire erupted in the former Deutsche Bank building, which is located across the street from the World Trade Center site and was damaged during the terrorist attacks. The division is handling lawsuits from seven firefighters who responded to the fire.

### Flood Cases

Upstate New York experienced two years of unprecedented rainfall, resulting in "100-year floods" of the Delaware River and its tributaries in 2004 in 2005. Two sets of plaintiffs sued the City. One group of about 60 plaintiffs living downstream from the City's Pepacton Dam sued the City, claiming it could have operated the dam in a way that would not have caused any flooding. The trial court dismissed that case on summary judgment. The plaintiffs have appealed; and the matter is currently being considered by the Appellate Division. The other group of plaintiffs consists of about 125 property owners who live downstream from the City's Neversink Dam. They claim that the City negligently maintained the dam's release valves. They also claim that the way the City operated the dam violated the federal Endangered Species Act and Clean Water Act. That matter is currently pending in federal court in White Plains.



# WORKERS' COMPENSATION



The Workers' Compensation Division represents the City and related entities at all hearings, trials and appeals before the N.Y. State Workers' Compensation Board. Additionally, the Division administers all aspects of claims by covered employees who are injured on the job or incur an occupational disease. Claims involve nearly every conceivable medical condition, including work-related psychiatric diagnoses, respiratory ailments, heart conditions, and orthopedic conditions. The Division strives to provide employees with all the medical and wage replacement benefits to which they are entitled, while objecting to and, if necessary, litigating unwarranted claims.



**John Sweeney**  
Division Chief



New York enacted its workers' compensation statute to address the inequities historically existing among employers and employees with regard to workplace injuries. The New York statute operates on the premise of a tradeoff. Employers assume all liability for injuries arising out of, and in the course, of employment – regardless of fault. Workers receive limited wage replacement benefits for lost earning capacity, and are entitled to have all related and necessary medical costs paid. In exchange, employees are prohibited from suing employers for personal injuries.

New York City is a self-insurer of its workers' compensation obligations pertaining to all covered City employees. Employees not covered under this statute, but by union contracts, include uniformed police officers, firefighters and uniformed sanitation workers.

## Significant Matters from 2007:

- Receiving and indexing over 15000 new claims.
- Representing the City at over 17,000 hearings, trials and appeals before the N.Y. State Workers' Compensation Board.
- Paying over \$140 million in wage replacement benefits and medical costs to injured employees.
- Processing over 165,000 medical bills.
- Obtaining revenue recoveries in excess of \$11.5 million from various sources, including state funds, lien satisfaction and insurance arbitration.
- Improved response time when dealing with administrative requests for information from the Workers' Compensation Board.

# **SUPPORT DIVISIONS**

**ADMINISTRATION**

**INFORMATION TECHNOLOGY**

**OPERATIONS**



# ADMINISTRATION



The Administration Division oversees business operations for the Law Department, and is responsible for all expenditures of funds, collection of revenue and fees, procurement rules compliance and personnel processing. Staff also provide general administrative oversight and development of internal policies, rules and regulations. Finally, the Division is responsible for ensuring the physical maintenance of eight citywide offices in addition to the Kingston, N.Y. office.



**Malachy Higgins**  
Division Chief



Each year, the Division handles over 35,000 paychecks; hundreds of personnel actions; thousands of payments for expert witnesses; 6,000 requests for court reporters and depositions; and hundreds of individual procurements. Moreover, it deposits money recovered in lawsuits on behalf of the City, and handles the enrollment of employees in the health benefits/managerial benefits program. The Division's efforts continue to focus on expansion and renovation of the Law Department's facilities, speedy responses to staff changes, and automation of systems and processes to increase the Department's efficiency. The Division also provides oversight and advice to other Department enterprises, such as information technology initiatives, equipment upgrades and management evaluations.

## Highlights of Accomplishments from 2007:

- Secured capital project funding and assisted our IT Division with the infrastructure and hardware upgrade rollout.
- Implemented electronic routing of invoices in nonlitigating divisions.
- Implemented the use of scanning technology to handle the depositing functions for City Treasury checks.
- Implemented the use of invoice review software to review and approve law firm invoices.
- Coordinate the identification and training of agency staff in various roles for the Coastal Storm Plan (CSP) developed by the New York City Office of Emergency Management (OEM).
- Completion of the Law Department's new security access management system, which includes a new ID badge system with turnstile-access control.



**Joseph Mercas**  
Chief Technology Officer

# INFORMATION TECHNOLOGY



The Information Technology (IT) Division is responsible for all aspects of computing and technology use including: network infrastructure, network security, connectivity, data management, information security, application support, database administration, software, management, administration, technical support and much more. The Division's mission is to provide quality IT services and solutions – effectively aligning business and technology objectives to provide cost-effective, innovative and quality solutions that facilitate and improve the conduct of business of the Law Department. The Information Technology Division is comprised of four sub-units: Application Support, Infrastructure & Operations, Information Security and IT Administration. Keeping up with today's fast-paced world of technology is a challenge, but the Law Department is well positioned for the foreseeable future because of the technology investments and IT accomplishments made in 2007.



## Highlights of Accomplishments from 2007:

- During the past year, a much-anticipated desktop computer upgrade was completed, and 1,151 new desktop computers were installed in Law Department offices in all five boroughs. The new computers are smaller and take up less room; include flat-panel displays; are much faster; and represent a major milestone for the Law Department in keeping pace with technology that is readily available in today's marketplace. The positive impact of installing the new desktop computers was immediate, and provided the necessary processing power for users to be more productive.
- Email is a business critical application, and a major e-mail migration was completed from Microsoft Exchange 5.5 to Microsoft Exchange 2003, providing greater stability, manageability and many additional new features. Other software applications were upgraded, including: FileSite, LawManager, e-Forms, and the Intranet to improve overall reliability, operation, management and productivity.
- Video Conferencing is now available in all five boroughs as the result of a grant obtained by the Family Court Division.
- The IT Division implemented multiple policies to support critical outage communications, production server maintenance, Blackberry device security, change management and other Information Technology Infrastructure Library (ITIL) concepts and techniques. This improved the management of information technology for infrastructure, development and operations.
- The Division made many network infrastructure improvements, including upgrades to Cisco switches and production server hardware that boosted the network, streamlined application performance and improved response time.

# OPERATIONS



The Division's two-fold mission is to provide centralized production support and improve operational efficiencies for the Law Department. The Operations Division is comprised of five document production and distribution units, and an operational analysis unit. The document production and distribution units manage legal processing, case docketing, electronic editing, courier services, composition and duplication of hundreds of documents daily, and servicing and filing of legal papers. The Operational Analysis Unit works to improve the Department's operational efficiencies, and plays a major role in producing specialized reports, including data for the Mayor's Management Report and governmental audits.



**Kenneth Majerus**  
Division Chief



## Highlights of Accomplishments from 2007:

- The Document and Data Processing Center responded to 4,000 job requests and received three times the number of requests via e-mail than in calendar year 2006 – over 1,500.
- DDPC also produced a myriad of publications for the Agency including this Annual Report.
- Nearly 75% of our fleet of convenience digital copiers were replaced, resulting in no digital copier being older than 1.5 years.
- The Division continued its work on supervisory staff skill development by enrolling staff in professional-level training. Thirteen people attended one or more offerings out of 15 courses.
- Operations analysts continued working with LawManager staff to develop standard operating procedures for several divisions in an effort to standardize training and data capture.
- The Communications and Docketing Services Unit handled over 58,000 individual items either delivered by hand or through personal service, and opened over 22,000 new matters in LawManager.
- Staff in Communications & Docketing Services coordinated efforts with Tort's World Trade Center Unit to log and enter over 6,000 summons and complaints, adding the dozens of plaintiffs to each matter and detailed data regarding the claimed injuries.
- The Duplication and Finishing Services Unit produced over 8 million pages during the calendar year.
- The Process and Courier Services Unit handled nearly 28,000 services, filings, deliveries and pick-ups.

# CLASS of 2007



Mayor Bloomberg, Corporation Counsel Michael A. Cardozo, First Assistant Corporation Counsel Jeffrey D. Friedlander, and Director of Legal Recruitment Stuart Smith with the 2007 class of Assistant Corporation Counsels.

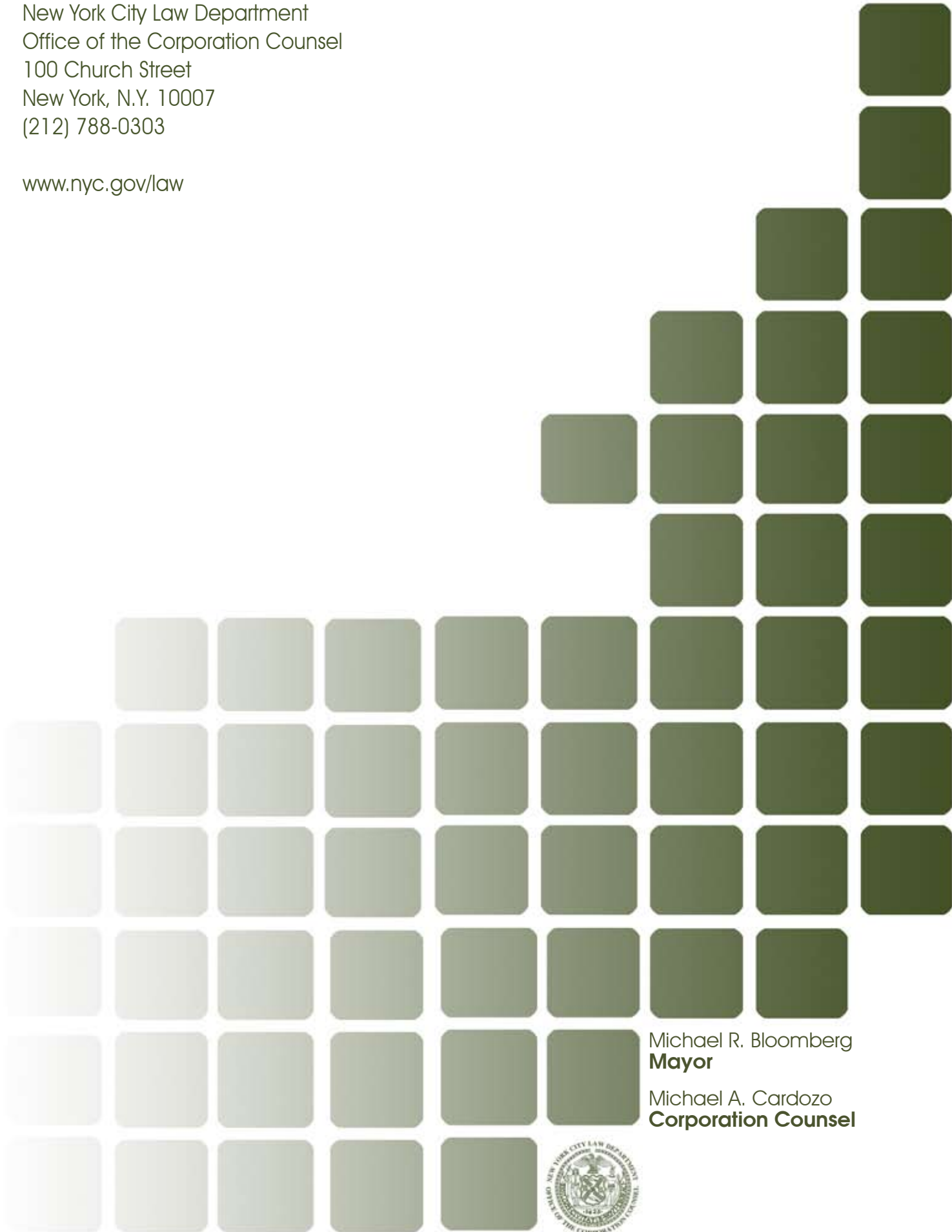
The Law Department, an equal opportunity employer, has long been committed to recruiting, retaining, and promoting a diverse community of professionals. The Law Department's Diversity Committee works to enhance the recruitment and retention of attorneys of all backgrounds. Our Women's Committee focuses on issues of particular importance to the 60% of our attorneys who are women. Each fall, the Law Department hosts a diversity reception for law students and attorneys to learn about our work and meet our attorneys

Today, diversity is reflected throughout the ranks of the Law Department. Five of our 17 division chiefs are Black, Hispanic, or openly gay or lesbian and a majority of our attorneys work in a division led by a female division chief. More than 20% of the attorneys in the office self-identify as Black, Hispanic, or Asian. Moreover, the Law Department has the largest number of openly gay attorneys among the law offices reporting this information to the National Association of Law Placement.



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Michael R. Bloomberg  
**Mayor**

Michael A. Cardozo  
**Corporation Counsel**

