

practice chair

Christopher Rizzo / Partner

Judith Wallace / Partner

Karen E. Meara / Partner

Michael H. Bauscher / Partner

Rocco M. Sainato / Counsel

Nicholas W. Tapert / Associate

Providing comprehensive, cost-effective counsel, our team represents public and private entities in all aspects of environmental and land use law. Our lawyers bring broad experience and deep familiarity with the New York regulatory landscape to matters large and small. For over 25 years we have advised clients on development of many of the most significant infrastructure projects in the New York metropolitan area and some of the most important projects for building and protecting communities. We pride ourselves on understanding our clients' goals, leverage points and exposures, and developing practical and creative approaches to advancing and protecting clients' interests. We excel both at resolving conflicts without litigation and achieving our clients' goals through the courts when necessary.

The clients that rely on us for environmental and land use counsel include energy companies, public benefit corporations, affordable housing developers, religious institutions, non-profit organizations, coop and condo associations and other homeowners, waste management companies, manufacturers and more.

Our lawyers help both governmental and private clients navigate the complex regulations governing environmental and land-use matters in New York and other jurisdictions. We advise clients on environmental impact reviews under federal, state and local laws; provide counsel in connection with environmental enforcement proceedings; provide zoning advice and representation before regulating authorities; negotiate development rights transactions; conduct due diligence on corporate mergers and acquisitions; provide advice on proposed and actual changes to law; and zealous representation in related litigation.

Why Our Experience is the Right Fit

The founders of our practice litigated some of the leading cases interpreting New York State's State Environmental Quality Review Act, and our team has significant experience in City government, private practice, key non-profits and the court system. We have successfully represented clients on high profile matters ranging from the redevelopment of the World Trade Center site and the extension of the number 7 subway line to neighborhood rezonings and the development of affordable housing in Manhattan and Brooklyn.

In our experience, the legal advice required on environmental and land use matters often cuts across disciplines. Our team is able to and does draw on the experience of our colleagues at Carter Ledyard in the real estate, corporate, eminent domain, tax exempt organization, litigation, and other departments. Our lawyers also work

closely with a top-tier network of engineers, architects, environmental consultants and other law firms to best assist our clients.

Proven Strengths

Land Use and Zoning: Our land use and zoning lawyers have a deep understanding of New York City's Zoning Resolution and the regulations and procedures applicable to urban development. Our team provides land use counsel for acquisition due diligence, zoning opinions for construction financing and at every step in between. We regularly advise clients on opportunities and limitations under current zoning, and when regulations restrict our clients, we prosecute applications for zoning variances and prepare zoning amendments, special permits, and development rights transfers to fulfill our clients' objectives. Carter Ledyard attorneys regularly appear before the Board of Standards and Appeals, City Planning Commission, and New York City Council. We work collaboratively with New York City's Economic Development Corporation and Department of Housing Preservation and Development to shepherd projects through the thicket of challenges facing development. We take care to understand the perspective of regulating agencies and maintain relationships with key staff to facilitate issue resolution. Our attorneys are also adept at navigating the affordable housing tax exemption programs and commercial abatements that incentivize development in New York.

Environmental Review and Permitting: We are among the most experienced New York law firms working in the fields of environmental review and permitting. This includes reviews under the National Environmental Policy Act and State Environmental Quality Review Act throughout New York State. Our lawyers advise public and private clients developing public parks, constructing transportation infrastructure, extending and upgrading energy facilities, advancing neighborhood re-zonings and more on all aspects of compliance with environmental review requirements—working to integrate compliance with all applicable environmental, historic and land-use laws into one review process.

Climate Change: In the absence of any comprehensive federal action to address global warming, New York State and New York City have aggressively stepped in to reduce greenhouse gas emissions in the energy, transportation, and building sectors. Our lawyers are closely following these developments and keeping our clients up-to-date. For example, we have been advising our clients in the building sector on compliance with New York City's 2019 Climate Mobilization Act, which will require substantial reductions in building emissions beginning in 2024. We are also closely following the implementation of the State's Climate Protection and Community Leadership Act, which will substantially impact our clients' plans and operations through its requirements for significant reductions in emissions from the energy sector by 2040 and all sectors by 2050. Implementation will clearly involve substantial expansions of wind, solar and transmission projects, areas in which we have significant siting and environmental review experience. We continue to monitor new corporate and environmental disclosure requirements to help our clients navigate this always-evolving regulatory environment.

Green Buildings & Sustainable Development: Our team provides advice on sustainability measures in development projects; best management practices for mitigating environmental impacts during project construction; the enforcement of private developers' commitments to obtain Leadership in Energy and Environmental Design (LEED) certifications; the installation of state-of-the art energy efficient, pollution-control technology, and cogen projects; and compliance with new sustainability requirements such as New York City's 2019 Climate Mobilization Act and related City and State laws. We have also advised coalitions of states on formation of the Regional Greenhouse Gas Initiative (and its operator RGGI Inc.) and the Western Climate Initiative (and its operator WCI Inc.) Recently, we have been engaged by the Georgetown Climate Center to advise northeastern states on creation of a credit trading system for emissions from transportation fuels.

Hazardous Materials and Brownfields: Our lawyers advise clients on managing risks associated with unanticipated releases of hazardous materials, represent clients in agency enforcement proceedings, and draft license agreements for temporary access to carry out remedial programs. We regularly advise clients on New York's Brownfield Cleanup Program (BCP). We counsel clients on the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the New York Navigation Law, and other relevant state and local laws.

Due Diligence and Corporate & Real Estate Transactions: We advise potential buyers, sellers, and lenders on the potential environmental risks involved in the transfer and development of real property, joint ventures, secured financings, and mergers, acquisitions, and corporate reorganizations. Our representation includes the supervision of environmental assessments, soil testing and evaluation, and the preparation of indemnification agreements with or among potentially responsible parties. Our work extends throughout the United States and abroad where we work with qualified local consultants and counsel, often through our global legal network Meritas for which Carter Ledyard is the New York City member (www.meritas.org).

Landmarks & Historic Preservation: Our team is well versed in historic preservation law at the federal, State and City levels. We appear regularly before the New York City Landmarks Preservation Commission. Our lawyers also advise clients on compliance with the consultation process under Section 106 of the National Historic Preservation Act and on review by the New York State Historic Preservation Office under state or other historic preservation laws.

Litigation: When disputes arise in connection with our land use and environmental work, we negotiate creative resolutions where possible. When necessary, we defend our clients' interests in court. Our lawyers have represented both public and private clients in every type of environmental and land use dispute, from challenges to public land use determinations and SEQRA compliance, to disputes over construction access agreements, temporary or permanent easements, and alienation of parkland. While many of these disputes have ultimately settled out of court, our lawyers have secured dozens of favorable decisions.

Constitutional Issues: We advise on issues involving regulation of speech in public open spaces, federal preemption of laws governing energy and vehicle efficiency and emissions, and takings resulting from zoning and land-use laws—guiding our public-sector clients on a variety of constitutional issues that may arise in environmental and land-use matters.

Experience

Commercial and Industrial Projects: The firm advised clients on the purchase and sale of a variety of commercial, retail and industrial sites around the country. We have advised New York State agencies on the development of millions of square feet of office space in Lower Manhattan and Hudson Yards in New York City. We have advised domestic and foreign corporations on the purchase of industrial sites throughout the United States, ranging from a two-acre former manufacturing site in Brooklyn to a thousand-acre industrial site in Louisiana—carefully guiding the clients through pre-purchase due diligence and negotiation of environmental indemnities and insurance.

Residential Projects: Carter Ledyard regularly provides counsel relating to multi-family housing to the entities that own, develop and occupy such buildings. Our experience is wide ranging. Specific examples of the value we bring our clients include:

Affordable Housing: Our lawyers represent developers engaged in securing approval for affordable housing projects. We provide counsel on the city and state tax incentive programs that facilitate underwriting and the inclusionary programs that dictate the zoning envelope and floor area constraints. Our clients include developers building extremely low income housing, those providing mixed income housing using the 70/30 approach under 421-a, and coliving operators that are maximizing the density of developments using a shared amenity approach to development.

Co-Ops, Condos, other residential buildings and Construction: Our lawyers represent cooperative and condominium boards, as well as individual homeowners, in a variety of real estate, construction, and land-use topics. Matters include negotiation of development agreements, development rights transfers and construction agreements with neighbors; resolution of zoning and building code issues; and litigation between neighboring landowners over a variety of disputes.

Energy Project Siting: Carter Ledyard has advised the New York Power Authority and Long Island Power Authority for decades on siting new gas-fired power plants, transmission lines, renewable energy and more. We have also advised Enbridge (formerly SpectraEnergy) in various gas

transmission projects around the New York City Region that included routing lines across the New York harbor and across the Hudson River. Finally, we have advised our corporate clients on environmental due diligence in purchases and investments in existing power plants around the region.

Parkland and Waterfront Development: Our lawyers regularly provide advice on the rehabilitation of aging bulkheads, navigation, and floodplain management issues, federal and state permitting requirements, and consistency with state and local coastal development policies. We maintain a deep familiarity with the state's public trust doctrine and defending against parkland alienation claims. We also represent business improvement districts and nonprofit park conservancies in their operation and management of public open space, including through negotiations with the New York City Department of Parks and Recreation.

Nonprofit and Religious Landowners: The firm has a special proficiency in working with nonprofit landowners in the purchase, sale and environmental stewardship of their properties around the state. We advised a nonprofit healthcare provider in site selection for its new corporate headquarters in New York City. We have advised religious orders on the sale or creation of conservation easements for their land in the Hudson Valley. We have advised landmark churches on sale of development rights and proceedings before the Landmarks Preservation Commission. In some cases we have negotiated innovative collaborations between landmark churches and adjacent developers to sell development rights and renovate landmarks. And we represent nonprofits in disputes with regulatory agencies over environmental contamination, landmark status, property taxes and more. In all cases we work closely with the attorneys in the firm's nonprofit practice group.

Waste Management Industry: We have advised private sector and non-profit clients in connection with City and State regulatory changes, including the City's recent restructuring of the commercial waste collection system to a zone based system subject to competitive bidding, and its ultimately successful efforts to ban most types of polystyrene foam from the residential waste stream. We also advise clients on project permitting under Part 360 of the State's environmental regulations and related authorities.

Government Representation: Our firm has a long and special history representing New York State public-benefit corporations, the New York City Economic Development Corporation, and similar entities. For more than 25 years we have worked on hundreds of projects, litigations, and transactions that have shaped the built environment around the state. Some representative matters include:

- World Trade Center Memorial and Redevelopment Project; ongoing redevelopment of Site 5/130 Liberty Street (Lower Manhattan Development Corporation-LMDC)
- East River Esplanade and Piers Project (LMDC)
- Hudson River Park, Segment 3 (LMDC)
- Lower Manhattan Parkland Improvement projects (LMDC)
- No. 7 Subway Line Extension Project (Metropolitan Transportation Authority-MTA)
- Pier A Environmental Review, North Cove Marina License (Battery Park City Authority-BPCA))
- Atlantic Yard Redevelopment Project (MTA)
- Western Rail Yards Development Project (MTA)
- SouthTown Development (Roosevelt Island Operating Corporation—RIOCI)
- Octagon Historic Redevelopment (RIOCI)
- Willets Point (Economic Development Corporation—EDC)
- Southpoint Open Space Improvement Project (RIOCI)
- FDR Memorial (RIOCI)
- Columbia University Expansion (Empire State Development)
- Public Authorities Accountability Act and Indian Point Closure (NYSERDA)

Notable Cases

- *Palacios v. Lincoln Ctr. For the Performing Arts, Inc.*, 2016 N.Y. Misc. LEXIS 5341; 2016 NY Slip Op 32928(U) (representing Lincoln Center, successfully settled challenge to use of public park for bi-annual Fashion Week events).
- *Incorporated Village of Port Jefferson v. Caithness Long Island II, LLC et al.*, Index No. 065931/2014 (Sup. Ct. Suffolk Co. 2015) (successfully defended LIPA against SEQRA challenge to gas-fired power plant).
- *Glick v. Harvey*, Index No. 103844/12 (Sup. Ct. N.Y. County 2013) (successfully defended Dormitory Authority of the State of New York against challenge to its approval of NYU Expansion Project).
- *Matter of Sane Energy v. Hudson River Park Trust*, Index No. 103707-12 (Sup. Ct. N.Y. County 2013) (successfully defended Spectra Energy Corp. against challenges to natural gas pipeline across Hudson River).
- *Matter of Kaur v. New York State Urban Development Corp.*, 15 N.Y.3d 235 (2010) (secured dismissal of claims and reversal of appellate division for client ESD in challenge to use of eminent domain for Columbia University's education project in Manhattanville) (represented ESD in a variety of related litigations).
- *Matter of Develop Don't Destroy (Brooklyn) v. Urban Dev. Corp.*, 59 A.D. 3d 312; 874 N.Y.S. 2d 414; 2009 N.Y. App. Div. LEXIS 1500; 2009 NY Slip Op 1395 (secured dismissal of claims against MTA regarding SEQRA).
- *Matter of East End Property Co. # 1 v. Kessel*, 46 A.D.3d 817 (2d Dep't 2007), *aff'd* 10 N.Y.3d 926 (2008) (successfully defended LIPA against challenge to gas-fired power plant).
- *Coalition of 9/11 Families et al. v. LMDC et al.*, 12 Misc. 3d 1173(A) (Sup. Ct. N.Y. County 2007) (successfully represented LMDC in challenge to compliance with National Historic Preservation Act).
- *Roosevelt Island Residents Association v. Roosevelt Island Operating Corporation*, 7 Misc. 3d 1029(A) (Sup. Ct. N.Y. County 2005) (successfully defended RIOC against challenge to new residential and open space project).
- *Hell's Kitchen Neighborhood Association v. N.Y. City Department of City Planning et al.*, 800 N.Y.S.2d 347 (N.Y. County 2004) (represented MTA and NYC and secured dismissal to challenge to draft environmental impact statement prepared for Hudson Yards Project).

Recognition

Recognized by Best Law Firms™ as a National Tier 1 Environmental Law Firm (2024) for several years in a row