



## contact

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I take a practical approach and prefer to go into each project with a sense of flexibility. It's imperative that I listen carefully to my clients so I can tailor my advice and guidance to meet their goals. My experience as a litigator married with my strong writing skills and insight as an eminent domain and land use lawyer give me the ability to articulate positions clearly and persuasively, which my clients appreciate.

Focusing his practice on eminent domain matters, litigator Michael "Mike" Bauscher advises municipalities and public-benefit corporations that are using condemnation law to acquire interests in real property, guiding them in the planning process for acquisition of properties by eminent domain, the public hearing process, the commencement of acquisition proceedings, and defending against legal challenges to decisions to acquire properties.

With significant experience in proceedings to determine the fair market value of properties taken by eminent domain, Mike is an integral part of trial teams for these types of valuation proceedings. To prepare for these disputes, he works closely with appraisers and other experts such as engineers, construction cost estimators, environmental consultants, and architects.

A stellar writer and drafter, Mike has prepared many appellate briefs in connection with condemnation matters and has argued before appellate courts including the Second Circuit Court of Appeals and the New York State Appellate

Division. Additionally, he has successfully defended condemning authorities against federal constitutional challenges.

Mike's trial record encompasses issues related to zoning, economic and physical feasibility, highest and best use determinations, and comparable sale analysis. He also has significant experience with judgment enforcement practices in New York state courts and the preparation and filing of public and private mechanic's liens pursuant to the New York lien law.

Mike enjoys helping municipalities strategically plan and sensibly implement their projects involving condemnation and eminent domain and finds it gratifying to be directly involved with advancing development projects intended to better the public good by making a positive impact on communities. He also appreciates the intellectually stimulating aspects of participating in the appraisal process and working with appraisers to review and refine their work. In all property valuations, Mike diligently helps balance the need to compensate owners fairly while ensuring that the municipality is a strong fiduciary for taxpayer dollars and pays a just price for the real estate.

In the land use and real estate arena, Mike advises property owners, developers and other construction industry entities in a range of matters. His practice centers on the New York City area and includes representations of clients before local municipal boards in Westchester County, as well as the New York City Board of Standards and Appeals. Mike also has a particular interest in and penchant for helping clients and prospective clients take advantage of the wide and diverse spectrum of legal services that the firm offers by connecting them with the lawyers who are the best fit to help them resolve their particular issues.

Beyond his work relating to eminent domain and land use, Mike advocates in both state and federal courts in complex civil litigation matters and advises corporate clients on transactional matters and federal regulatory affairs, including issues related to off-label marketing and other FDA regulations, the Physician Payments Sunshine Act, and anti-kickback statutes. He also conducts internal investigations and works on all phases of commercial litigation cases and appeals.

## **Experience**

### **Condemnation/Land Use Matters**

- Represent the County of Suffolk in connection with the Fire Island Inlet to Moriches Inlet (FIMI) Project, a beach stabilization project undertaken by the County, the State of New York, and the Army Corps of Engineers. The project seeks to create, restore, and maintain sand dunes damaged by Superstorm Sandy along the 12.5 mile coastline of Fire Island, and involves the acquisition of hundreds of easements and dozens of fee acquisitions. Mike has been an integral part of trial teams and examined primary witnesses at multiple valuation trials.
- Successfully represented Suffolk County in federal court defending against claims that the County violated constitutional Due Process, Equal Protection and First Amendment rights of certain oceanfront property owners in connection with the FIMI Project.
- Represent the City of New York and the Hudson Yards Development Corporation in connection with implementation of Phase 2 of the Hudson Park & Boulevard Project, which involves the planned acquisition of partial and total fee interests as well as temporary easements needed to implement the project.
- Represent NYS Urban Development Corp., d/b/a Empire State Development, in connection with obtaining property interests necessary for development of the Columbia University/Manhattanville Project.
- Represent the Lower Manhattan Development Corporation (LMDC) in connection with the implementation of the World Trade Center (WTC) Memorial and Cultural Program, including the acquisition of property interests needed to align property ownership interests with the existing street grid, transportation and security infrastructure, and the public open space and performing arts center described in the WTC Program's General Project Plan.
- Part of a trial team that successfully represented the City of New York in connection with a 21-day large-scale eminent domain valuation trial related to the condemnation of a 7.2-acre tennis facility along the East River waterfront in Long Island City.

- Successfully argued before the Appellate Division, Second Department in an appeal in which the Second Department affirmed the dismissal of a claim involving a multi-year battle over the claimed liability of a government client for attorneys' fees in connection with a condemnation project.
- Represented the Metropolitan Transportation Authority in connection with appealing the trial decision issued in a valuation proceeding relating to 52 acres of land acquired by the MTA via eminent domain for a Metro-North commuter parking lot.
- Represented a property owner before multiple municipal boards in Westchester County, New York, in connection with a proposed residential development.
- Assisted with preparing New York City BSA application on behalf of a commercial client for additional time to complete construction.

## Litigation/Internal Investigations

- Argued and won an appeal before the Second Circuit Court of Appeals in connection with a successful motion to confirm an arbitration award.
- Represented limited liability companies in connection with an SEC investigation.
- Represented the former Chairman of the Board of Directors of a public company in connection with a SEC civil action.
- Represented foreign investment entities in fraud actions in connection with investments in collateralized debt obligations consisting of residential mortgage-backed securities.
- Represented a not-for-profit provider of homeless shelter services in connection with a commercial lease dispute.
- Represented a judgment creditor in the financial services industry in connection with judgment enforcement efforts in New York state courts, including multiple executions and levies, sheriff/marshal sales, and priority battles involving LLC interests.
- Successfully obtained summary judgment on behalf of a global media company in connection with a right to privacy/intellectual property action.
- Filed numerous Mechanic's Liens on behalf of a construction company, which resulted in the prompt payment of outstanding invoices.

## Corporate/Regulatory

- Advised global medical device manufacturers on issues related to the Physician Payments Sunshine Act, off-label marketing and other FDA regulations, and anti-kickback statutes.
- Advised global medical device manufacturer in connection with reviewing and negotiating supply agreements, licensing agreements and compliance policies.

## Outside the Office

Spending time with my family is my top priority. We enjoy hiking and finding good restaurants throughout Westchester County, skiing, and traveling. We particularly love spending time in Rhode Island each summer. Public service has also always been important to me. I previously sat on my local school district's board of education and I serve on various district committees. I greatly appreciate the opportunity to make a difference in public education. I also coach multiple little league and travel baseball teams and enjoy being active.

## Practices

Litigation and Disputes  
Condemnation  
Environmental and Land Use  
White-Collar and Criminal Defense  
Real Estate

## Admissions

### Bar Admissions

New York

### Court Admissions

U.S. Court of Appeals, Second Circuit

U.S. District Court for the Eastern District of New York

U.S. District Court for the Southern District of New York

## Affiliations

Member, New York State Bar Association

Member, The Association of the Bar of the City of New York

## Education

Pace University School of Law (JD, *summa cum laude*, 2010)

- Dean's Award – Full-Time Division
- Editor-in-Chief – *Pace Law Review*
- Federal Judicial Honors Program
- Dean Scholar of Civil Procedure
- Member – Honor Roll

The Pennsylvania State University (BS, *magna cum laude*, 2004)

- National Society of Collegiate Scholars
- Golden Key National Honor Society

## Awards/Honors

*Super Lawyers*® "Rising Star," 2015-2022, 2023

Elisabeth Haub School of Law at Pace University, Private Sector Award, 2019