



NEW YORK CITY LAW DEPARTMENT  
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

[nyc.gov/law](http://nyc.gov/law)

*For Immediate Release*

**CITY PREVAILS IN PROSPECT PARK WEST BIKE CASE;  
DECISION PRESERVES BICYCLE PATH  
REQUESTED BY THE COMMUNITY**

***SIGNIFICANT VICTORY FOR THE CITY AS BROOKLYN JUDGE FINDS LEGAL CHALLENGE  
BY PLAINTIFFS UNTIMELY***

Contact: Kate O'Brien Ahlers, Communications Director, NYC Law, (212) 788-0400, [media@law.nyc.gov](mailto:media@law.nyc.gov)

New York, August 16, 2011 -- The City's Department of Transportation (DOT) prevailed in the Prospect Park West (PPW) bike path case late today, allowing the project – which was installed in response to community requests and concerns – to remain unimpeded after Brooklyn Supreme Court Justice Bert Bunyan dismissed the main causes of action brought by the petitioners.

"This decision results in a hands-down victory for communities across the city. The plaintiffs have been dead wrong in their unsupported claims about the bike path and DOT's practices," said DOT Commissioner Janette Sadik-Khan. "This project was requested by the community, they voted repeatedly to support it, and their support has registered in several opinion polls. Merely not liking a change is no basis for a frivolous lawsuit to reverse it."

"We are very pleased that the Court rejected the petitioners' challenge. The bike path enhances the local community, helps mitigate speeding on Prospect Park West, and makes the road safer and more accessible venue for everyone," said Corporation Counsel Michael A. Cardozo of the New York City Law Department, whose office litigated the case on behalf of DOT.

The City had argued that the installation was entirely proper and that the path was always represented as part of a permanent "street calming" project for PPW, a thoroughfare where cars often sped and bike riders rode on the sidewalk. The project was initiated after members of the community raised safety concerns. The proposal was revised multiple times with input from the community and was implemented after substantial analysis.

In its arguments, the City also asserted that the legal challenge was commenced too late, because the plaintiffs had exceeded their statute of limitations. The Court noted, "The threshold issue is whether petitioners' bikeway claim is timely" (page 5 of the decision). Brooklyn Supreme Court Justice Bert Bunyan found it was untimely.

The plaintiffs argued that because the decision to install the bike lane was temporary, the time to challenge it had not begun when the lane was installed. The Court rejected that argument and found that in fact the decision to install the bike lane was meant to be permanent.

"We are gratified that the Court dismissed the main causes of action and found no evidence that the bike path was meant to be temporary. This important project can now remain unimpeded," noted Senior Counsel Mark Muschenheim of the Law Department's Administrative Law Division.

In addition to Mr. Muschenheim, Karen Selvin and Gabriel Taussig of Ad Law handled the case, along with Hilary Melzer of the Environmental Law Division and Amanda Goad (previously of that division). DOT attorneys Philip Damashek, Susan Rogerson-Pondish and N. Patricia Browne also contributed significant input.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top largest law offices in New York City and one of the largest public law offices in the country. Tracing its roots back to the 1600's, the Department has an active caseload of 90,000 matters and transactions in 17 legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's 650 attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. For more information, please visit [nyc.gov/law](http://nyc.gov/law).

# # #