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# Governing the Metropolis: Law, Politics, and Litigation in New York City

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## ABSTRACT

*This article explores the intersection of law, politics, and governance in New York City, focusing on the New York City Law Department and its role as a pivotal actor in public law. It traces the Department's institutional evolution from colonial origins to its modern status as the nation's largest municipal law office, emphasising professionalisation, centralisation, and the 'juridification' of urban policy. Recent developments under Mayor Zohran Mamdani, including key appointments like Steve Banks as Corporation Counsel and Executive Order 06 re-establishing the Mayor's Advisory Committee on the Judiciary, are examined. Through landmark cases such as *Monell v. Department of Social Services*, *Walz v. Tax Commission*, *Penn Central Transportation Co. v. City of New York*, *Board of Estimate v. Morris*, *New York City Transit Authority v. Beazer*, *Agostini v. Felton*, and *New York City Board of Education v. Tom F.*, the article illustrates how local disputes have shaped national doctrines on municipal liability, equal protection, property rights, religious neutrality, and democratic representation. Ultimately, it positions New York City as a laboratory for constitutional innovation, offering insights for global metropolitan governance.*

## KEYWORDS

*Governance, Juridification, Municipalism, Constitutionalism, Urbanism*

## INTRODUCTION

New York City occupies a distinctive position in public law. As a global city with a population larger than that of many sovereign states, it operates at a scale where municipal governance frequently intersects with constitutional principle, social transformation, and questions of political legitimacy. The New York City Law Department, led by the Corporation Counsel, sits at the centre of this intersection. It is not merely a litigation office, but an institutional actor through which evolving

conceptions of democracy, equality, property, religion, and social welfare have been tested and refined.

This article brings together two closely related narratives. The first traces the development of New York City's legal administration, focusing on the institutional development of the Law Department and the role of the Corporation Counsel in mediating between law, politics, and governance. From its origins in the colonial Recorder's office to its modern incarnation as the largest municipal law office in the United States, the Department has mirrored broader shifts in public administration: professionalisation, centralisation of executive authority, and the increasing 'juridification'<sup>1</sup> of urban policy. The second narrative examines a series of landmark cases arising from New York City that have shaped constitutional and administrative law well beyond the city's boundaries. Decisions such as *Monell*, *Walz*, *Penn Central*, *Board of Estimate v Morris*, *Beazer*, *Agostini*, and *Tom F.* illustrate how disputes rooted in local governance, such as employment practices, taxation, education, zoning, representation, and religious accommodation - have become vehicles for articulating national doctrines on municipal liability, equal protection, establishment, and the limits of state power.

Read together, these institutional and doctrinal histories reveal how New York City functions as a laboratory of public law. The Law Department does not only react to judicial change; it actively shapes the legal terrain on which constitutional meaning is contested. In doing so, it offers a compelling case study for comparative and international scholars interested in the governance of large metropolitan entities, the role of sub-state actors in constitutional development, and the ways in which law mediates political conflict in pluralist societies.

### NEW YORK CITY LEGAL ADMINISTRATION UNDER MAYOR MAMDANI

In late 2025, then-Mayor-elect of New York City, Zohran Mamdani, declared several senior appointments to his administration, designating new leadership for the city's legal operations and appointing a hospital executive to manage health and human services as he prepares for his inauguration. Mamdani named Steve Banks as corporation counsel, the city's principal legal officer, and designated Ramzi Kassem as chief counsel, a senior advisory role that does not need City Council approval. The City Council had to ratify Banks' appointment as corporation counsel. Banks once held the position of commissioner for New York City's Department of Social Services under ex-Mayor Bill de Blasio and

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<sup>1</sup> Juridification '(Oxford Reference)

<<https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100027349>> accessed 6 January 2026.

subsequently directed the Legal Aid Society. In his capacity as corporation counsel, he would oversee the Law Department, which represents the city and its agencies in legal proceedings and offers legal advice to City Hall. Kassem is a law professor recognised for his expertise in civil rights and constitutional disputes, having held advisory positions at both municipal and federal levels. In his capacity as chief counsel, he would provide legal strategy and policy advice to the mayor, but would not oversee daily litigation activities. Certain opponents had focused on Mamdani's selection of Kassem as top counsel, contending that this decision reflected an "ideological" perspective about the city's legal leadership.<sup>2</sup> Mayor Zohran Mamdani also designated veteran adviser and election attorney Ali Najmi to lead the Mayor's Advisory Committee on the Judiciary, which is launching a new push to include a broader segment of the city's legal community in its judge selection duties.<sup>3</sup>

Following his inauguration as Mayor of New York City, Zohran Mamdani issued Executive Order 06<sup>4</sup> on January 2, 2026. The executive order re-established the Mayor's Advisory Committee on the Judiciary to oversee a merit-based, independent, and publicly credible process for judicial appointments in New York City, while preserving the confidentiality of applicants. The Committee was housed in the Office of the Mayor and was responsible for recommending candidates for appointment to the Criminal Court, Family Court, and interim Civil Court, as well as for evaluating incumbent judges for reappointment. The Committee's core functions included recruiting highly qualified candidates, conducting thorough evaluations of their character, experience, temperament, and commitment to equal justice, and considering all relevant information before making recommendations. For each judicial vacancy, the Committee generally submitted three nominees to the Mayor and referred proposed nominees for background screening. Incumbent judges were reviewed for reappointment, and if they were found not highly qualified, the Committee was required to nominate alternative candidates. Public accountability was supported through public hearings for new judicial nominees, at which members of the public could provide information about a nominee's fitness. The Committee could reconsider nominations based on this input. The Mayor could only appoint judges who had been nominated by the Committee

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<sup>2</sup> Lauren Conlin, 'Mamdani Appoints Corporation Counsel, Health Deputy Mayor' (LAMag31 December 2025) <<https://lamag.com/news-and-politics/mayor-elect-mamdani-fills-legal-and-health-posts-ahead-of-inauguration/>> accessed 5 January 2026.

<sup>3</sup> Isabella Gallo, 'Mamdani Appoints Election Attorney, Advisor Ali Najmi to Chair Judiciary Committee' (amNewYork2 January 2026) <<https://www.amny.com/law/mamdani-ali-najmi-judiciary-committee/>> accessed 5 January 2026.

<sup>4</sup> Executive Order 06 (issued January 2, 2026, by Mayor Zohran Mamdani, re-establishing the Mayor's Advisory Committee on the Judiciary)

and was expected to fill vacancies within 90 days unless additional time was justified in the public interest. The Committee consisted of 19 members appointed by the Mayor, with nominations drawn from the Mayor, the Chief Judge, Presiding Justices of the Appellate Division, and deans of New York City law schools. Membership was required to reflect professional, geographic, and demographic diversity within the legal community. Members served fixed terms, were unpaid, and were barred from seeking judicial office while serving and for one year afterwards. The order also emphasised outreach, transparency, and ethics. The Committee was required to engage in public education to broaden and diversify the applicant pool, publish general information about its evaluation process, and release annual aggregate data on applications and appointments. Members were subject to New York City ethics rules, and the Committee was required to adopt a public code of conduct. The order revoked the prior 2022 executive order and took effect immediately.<sup>5</sup>

### THE CORPORATION COUNSEL

The New York City Law Department, one of the oldest and most active legal organisations globally, is among the City's major law offices and the largest municipal law office in the nation. The Law Department, also known as the Office of the Corporation Counsel, expanded from its humble beginnings to address the dynamic requirements of a burgeoning City. For the fiscal year 2024, the Annual Budget was \$325.3 million.<sup>6</sup>

Upon its incorporation as a municipality in 1686, New York City's first charter designated an individual to serve as Recorder, fulfilling the roles of city judge, attorney, and record keeper. From 1686 until the conclusion of the eighteenth century, the Recorder served as a politically influential counsellor to the Common Council, the governing body of the City, and actively functioned as a judge. In 1875, a significant event occurred when William C. Whitney was appointed Corporation Counsel. Whitney served until 1882 and established a City Law Department including highly skilled solicitors and a contemporary law firm organisational framework. During the 1890s, under the leadership of William H. Clarke, the duties of the office grew due to an increase in litigation and a heightened need for legal counsel for City officials. In the early twentieth century, the Law Department was instrumental in providing legal

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<sup>5</sup> Executive Order 06 '(The Official Website of the City of New York January 2026) <<https://www.nyc.gov/mayors-office/news/2026/01/executive-order-06>> accessed 5 January 2026.

<sup>6</sup> Brief History of the New York City Law Department '(New York City Council 2025) <<https://www.nyc.gov/assets/law/downloads/pdf/NYCLD-History-Card-2025.pdf>> accessed 5 January 2026.

counsel that facilitated the development of the City's infrastructure. It further endorsed economic control of enterprises and taxes of property owners. The Law Department used a non-enforcement strategy on New York State moral statutes pertaining to Sabbath observance, gambling, alcohol consumption, and prostitution. The office of the Corporation Counsel underwent significant transformation after the election of John Lindsay as Mayor of New York City in 1965. Lindsay's Corporation Counsel, J. Lee Rankin, Norman Redlich, and Frederick Nathan, unequivocally endorsed Lindsay's initiatives to address the concerns of African-American and Puerto Rican citizens of the City. The assault against institutionalised racism, the futile attempt to create a substantive civilian review board, and conflicts with unions on salary augmentations transpired during the City's budgetary crisis. This resulted in a compromise of the independence of the Corporation Counsels, since they were required to provide political support for the mayor. In Mayor Ed Koch's first Corporation Counsel from the 1970s, his long-time legal partner Allen Schwartz assumed control of an inadequately staffed legal Department characterised by low morale and substandard performance. Schwartz terminated patronage appointments and recruited new solicitors based on merit. The legal Department started representing the City akin to how a prominent legal firm would advocate for a corporate client, prioritising the client's economic welfare. Social aims were not prioritised, and party politics were maintained at a removed level. Schwartz restricted the external practice of law by Assistant Corporation Counsels and established a pro bono initiative whereby attorneys from prominent law firms managed litigation for the City at no cost. Fritz Schwarz and Peter Zimroth, successors to Allen Schwartz, maintained Schwartz's methodology of fervently advocating for their client, the city of New York, much to how a legal firm represents a private corporation.<sup>7</sup>

Subsequent to the 1990 charter reform, the Law Department became embroiled in lawsuits that opposed the mayor against other elected authorities. Before the 1990 constitutional amendments, the Board of Estimate served as the principal political forum of the city. The Board of Estimate governed land utilisation, contracts, franchises, and the fiscal budget. The voting members included the mayor, the city council president, the comptroller, and the five borough presidents. In response to the Supreme Court's ruling that the Board of Estimate's voting mechanism contravened the one-person, one-vote principle, a charter revision panel chose to eliminate the Board of Estimate. The new charter diminished the authority of the municipal council president, the comptroller and the five borough presidents, augmented the mayor's

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<sup>7</sup> Douglas D Scherer, 'William E. Nelson, Fighting for the City: A History of the New York City Corporation Counsel' (2013) 25 *Tuoro Law Review* <<https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=1209&context=lawreview>> accessed 5 January 2026.

substantial powers and considerably expanded and fortified the city council. Authority that was formerly confined to the Board of Estimate was reallocated. The reconfiguration of power dynamics post-1990 resulted in considerable litigation. The Law Department, led by Victor Kovner, Mayor Dinkins' first Corporation Counsel, was tasked with draughting a complex and extensive opinion delineating the numerous agency authorities under the new charter. That opinion continues to serve as the authoritative governing document for the city. The Law Department represents all contending authorities. Consequently, when authorities litigate against one another to get advantageous decisions on charter powers, it complicates the matter of the Law Department's client. Such litigations have included fundamental concerns of municipal government. The council and mayor have contested the mayor's authority to sell a public hospital, the council's power to amend the budget, the council's jurisdiction to create a police review board, and the council's authority to enact a living wage bill for employees of private businesses contracting with the city. The public advocate contested the Mayor's denial of access to information on police enforcement. The comptroller contested the mayor's jurisdiction to alter the ownership of upstate reservoir lands and the mayor's capacity to register contracts purportedly compromised by breaches of the city's procurement regulations.<sup>8</sup>

As of 2025, the corporation counsel supervises around 850 lawyers who represent the city in legal defences and initiate lawsuits on its behalf.<sup>9</sup>

### THE LAW DEPARTMENT AND CASE LAW

As the Law Department professionalized and expanded its remit, litigation increasingly became a central mechanism of governance rather than a peripheral consequence of policy-making. Disputes over employment practices, land use, education, religious accommodation, and democratic representation were not merely defensive actions, but moments in which the scope of municipal authority was defined and constrained. The cases examined below demonstrate how New York City's legal controversies served as vehicles through which courts articulated foundational principles of constitutional and administrative law.

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<sup>8</sup> Ross Sandler, 'The History of the New York City Law Department: Fighting for the City by William E. Nelson '(New York Law School2009) <[https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1887&context=fac\\_articles\\_chapters](https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1887&context=fac_articles_chapters)> accessed 5 January 2026.

<sup>9</sup> Mike Vilensky, 'Mamdani Taps Ex-Paul Weiss pro Bono Chief as NYC Law Leader ' (Bloomberg Law News30 December 2025) <<https://news.bloomberglaw.com/new-york-brief/mamdani-taps-ex-paul-weiss-pro-bono-chief-as-top-nyc-law-leader>> accessed 5 January 2026.

## *Monell* - Municipal Liability and Constitutional Accountability

*Monell v. Department of Social Services of the City of New York* (1978)<sup>10</sup> is a case whereby the New York City Board of Education granted pay to female workers compelled to take maternity leave. This action, initiated in July 1971, challenged the mandatory maternity leave policy of the New York City Board of Education. Following a 1978 U.S. Supreme Court ruling that determined cities were accountable for damages under the Civil Rights Acts, the case was resolved based on New York's initial offer of \$375,500, to be apportioned among all female employees subjected to mandatory maternity leave from July 1968 until the filing of the case. In response to an unexpectedly high number of women who replied to the settlement announcements, the City consented to augment the compensation fund to \$11 million. The City settled the claims in the autumn of 1981, a decade subsequent to the initiation of the litigation.<sup>11</sup>

The Supreme Court rejected the doctrine of municipal immunity, marking a significant shift in its approach to municipal liability. *Monell* represented a long-overdue departure from the *Monroe* (1961)<sup>12</sup> line of precedent, which had immunised governmental entities, placed federal courts in difficult and often confusing positions, and denied many §1983 plaintiffs effective relief. The decision clarified this area of law, provided litigants with a responsible governmental defendant in federal constitutional litigation, and was likely to enhance the deterrence of future constitutional violations by local authorities. The Court reaffirmed that §1983 constituted a statutory enactment of the Fourteenth Amendment's guarantees. As recognised in *Fitzpatrick v Bitzer*, (1976)<sup>13</sup> when Congress acted pursuant to section five of the Fourteenth Amendment,<sup>14</sup> it exercised plenary legislative authority while enforcing constitutional limitations on state power. In *Monell*, the Supreme Court indicated that the 42nd Congress, in enacting §1983 under section five, intended to hold local governmental entities accountable for failures to comply with constitutional mandates.<sup>15 16</sup>

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<sup>10</sup> 436 U.S. 658

<sup>11</sup> *Monell v. Department of Social Services* '(Center for Constitutional Rights 2007) <<https://ccrjustice.org/home/what-we-do/our-cases/monell-v-department-social-services>> accessed 5 January 2026.

<sup>12</sup> 365 U.S. 167

<sup>13</sup> 427 U.S. 445

<sup>14</sup> Fourteenth Amendment (Section Five)

<sup>15</sup> Lance D Taylor, 'Local Governmental Entities No Longer Absolutely Immune under Section 1983 - *Monell v. New York City Department of Social Services*' (1979) 28 De Paul Law Review <<https://via.library.depaul.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2465&context=law-review>> accessed 5 January 2026.

<sup>16</sup> 42 U.S. Code § 1983 - Civil action for deprivation of rights

## Walz - Tax Exemptions, Religious Neutrality, and the Establishment Clause

In *Walz v. Tax Commission of the City of New York* (1970),<sup>17</sup> the Supreme Court affirmed the legitimacy of tax exemptions for properties used only by religious, educational, or charitable organisations. Walz, a property owner in New York, initiated legal action against the city tax board, contending that the tax exemptions granted by the state to religious organisations constituted an unlawful financial contribution to these entities, so infringing upon the Establishment Clause of the First Amendment.<sup>18</sup> The Court contended that the intent of the exemptions was neither to promote nor to hinder religion; rather, these exemptions were accessible to a wide array of institutions deemed favourable by the state, encompassing hospitals, libraries, playgrounds, and scientific, professional, historical, and patriotic organisations. Upon reviewing the extensive history of tax exemptions for religious organisations in the United States, the Court concluded that such exemptions had not led to disproportionate entanglement between religion and government. The Court determined that taxing religious property might heighten governmental involvement by leading to tax assessments of church property, tax liens, and tax foreclosures. Moreover, requiring religious groups to financially support the government via taxation would result in entanglement.<sup>19</sup>

The issue addressed in Walz constituted a comparatively straightforward matter. The cases that were presented to the Court raised significant and fundamental questions concerning the framework of the political and social system of the USA. The Constitution provided no persuasive solutions. The Court undertook the challenging responsibility of addressing these matters by making determinations among conflicting interests and values of greater significance. The reliance on constitutional litigation as a method for addressing these enquiries placed an exceptional burden on the judicial system. The situation necessitated the discernment characteristic of a figure akin to Solomon.<sup>20</sup>

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<sup>17</sup> 397 U.S. 664

<sup>18</sup> First Amendment (Establishment Clause)

<sup>19</sup> Berkley Center for Religion, Peace & World Affairs, 'Walz v. Tax Commission of the City of New York '(Georgetown University) <<https://berkleycenter.georgetown.edu/cases/walz-v-tax-commission-of-the-city-of-new-york--2>> accessed 5 January 2026.

<sup>20</sup> Paul G Kauper, 'The Walz Decision - More on the Religion Clauses of the First Amendment '(1970) 69 Michigan Law Review <[https://repository.law.umich.edu/cgi/viewcontent.cgi?params=/context/mlr/article/4576/&path\\_info=>](https://repository.law.umich.edu/cgi/viewcontent.cgi?params=/context/mlr/article/4576/&path_info=>) accessed 5 January 2026.

## *Morris* - Democratic Representation and the One-Person, One-Vote Principle in Municipal Governance

One case that shook the institutions of New York City to the core was that of *Board of Estimate of City of New York v. Morris* (1989).<sup>21</sup> According to the charter of the City of Greater New York, which was enacted in 1898, the Board of Estimate held the authority to make determinations regarding the budget and land utilisation within the city. The composition included eight ex officio members: the Mayor of New York City, the New York City Comptroller, and the President of the New York City Council, all of whom were elected on a citywide basis and possessed two votes, while the five Borough presidents each held one vote. In 1981, attorney Richard Emery enlisted three women from New York City to initiate legal action asserting that the board's constitutionality was in question, a viewpoint that was not widely accepted at the time and ultimately resulted in a defeat during the initial hearing in the district court. The decision was subsequently overturned upon appeal, and the city's argument was addressed by the Supreme Court in 1988. The court had reached the unanimous decision that deemed the New York City Board of Estimate unconstitutional. This determination was based on the observation that the borough with the highest population, Brooklyn, did not possess a level of effective representation on the board that exceeded that of the borough with the lowest population, Staten Island. Such a situation was found to contravene the Equal Protection Clause of the Fourteenth Amendment,<sup>22</sup> in accordance with the Court's ruling in the 1964 case of *Reynolds v. Sims* (1964),<sup>23</sup> which established the principle of "one man, one vote." The Board had been disbanded. The case had been presented on December 7, 1988, and a decision was rendered on March 22, 1989. Justice Byron White articulated the opinion of the Court.<sup>24</sup>

Subsequently, on November 7, 1989, the electorate of New York City ratified, with a margin of fifty-five percent to forty-five percent, the most extensive and transformative amendments to their Charter since the year 1901. These alterations resulted in the dissolution of the City's longstanding Board of Estimate, while simultaneously maintaining a borough representation within the governmental framework, augmenting the authority of the City Council, reconfiguring nearly all of the City's essential decision-making procedures, and introducing numerous additional modifications. The alterations resulted from a revision process that commenced in the middle of 1987 with the initial

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<sup>21</sup> 489 U.S. 688

<sup>22</sup> Fourteenth Amendment (including Equal Protection Clause)

<sup>23</sup> 377 US 533

<sup>24</sup> Board of Estimate of City of New York '(LII / Legal Information Institute)

<<https://www.law.cornell.edu/supremecourt/text/489/688>> accessed 5 January 2026.

hearings of a Charter revision commission, subsequently accelerating significantly following March of 1989, when the Supreme Court deemed the voting system of the Board of Estimate unconstitutional in the case of *Board of Estimate of City of New York v. Morris*.<sup>25</sup>

### **Beazer - Employment Regulation, Public Safety, and the Limits of Equal Protection**

One case that touched on a variety of topics was *New York City Transit Authority v. Beazer* (1979).<sup>26</sup> Carl Beazer and Jose Reyes constituted personnel of the New York Transit Authority (NYTA). Both individuals had been heroin addicts who participated in methadone treatment. NYTA upheld a policy that prohibited the employment of individuals who utilised narcotics. Methadone had been classified as a narcotic, and the employment of both Beazer and Reyes was terminated subsequent to the NYTA's discovery of their use of methadone. Beazer and Reyes initiated a class action lawsuit against the Transit Authority, contending that the policy of the NYTA exhibited discriminatory practices against individuals of African American and Hispanic descent. The authors referenced a statistic indicating that 81 percent of the alleged breaches of NYTA's policy involved individuals identified as black or Hispanic. The United States District Court for the Southern District of New York rendered a decision in favour of Beazer, which was subsequently upheld by the United States Court of Appeals for the Second Circuit. In reply to whether the New York Transit Authority's ban on the employment of individuals utilising methadone constituted a violation of Title VII of the Civil Rights Act<sup>27</sup> or the Equal Protection Clause of the Fourteenth Amendment was examined, neither affirmative responses were provided.

The Court, in a decision reflecting a 6-3 majority, overturned the ruling of the Second Circuit, concluding that the policy implemented by the Transit Authority did not violate constitutional provisions or contravene the Civil Rights Act. In his opinion for the majority, Justice Stevens characterised Beazer's statistical claim as "weak," noting that the statistic of 81 percent did not pertain specifically to individuals using methadone. The Court acknowledged the significance of public safety in preventing individuals who used narcotics from being employed by NYTA. The narcotics regulation constituted a permissible policy decision undertaken by NYTA, and any particular exemption for individuals

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<sup>25</sup> Frederick Schwarz and Eric Lane, 'The Policy and Politics of Charter Making: The Story of New York City's 1989 Charter', (Hofstra Law Faculty 1998) <[https://scholarlycommons.law.hofstra.edu/faculty\\_scholarship/740/](https://scholarlycommons.law.hofstra.edu/faculty_scholarship/740/)> accessed 5 January 2026.

<sup>26</sup> 440 U.S. 568

<sup>27</sup> Title VII of the Civil Rights Act (1964)

utilising methadone from the narcotics regulation would have been deemed "costly" and "imprecise." Justice Lewis Powell authored an opinion that both concurred in certain aspects and dissented in others.<sup>28</sup>

The discontent expressed by the judiciary regarding the conventional two-tier equal protection analysis, particularly in relation to employment interests, became apparent through the diverse opinions articulated in the case of *New York City Transit Authority v. Beazer*. The district court employed a balancing methodology similar to the "intermediate level" of scrutiny that the Court frequently applied in equal protection cases concerning discrimination directed at women and children born out of wedlock. The dissenting opinion articulated by the Supreme Court adopted an alternative methodology, examining the case through the lens of classificatory accuracy, ultimately determining that the contested policy of the Transit Authority exhibited such excessive inclusivity that it rendered itself irrational. The majority of the Supreme Court employed the rationality test, which constituted the recognised standard of review in instances of employment denial. The implementation of this equal protection assessment resulted in the Court affirming the Transit Authority's "no drugs" policy, which consequently led to the exclusion of numerous qualified individuals from employment opportunities within the Transit Authority. The hesitance of the judiciary to implement the established standard in the case could be ascribed to the notion that employment represents an interest insufficiently safeguarded by conventional two-tier analysis. Given that employment was not regarded as a "fundamental" right, it occupied the lowest tier of equal protection analysis, specifically the rationality level, where minimal "analysis" typically transpired and legislative classifications were nearly always affirmed. Nevertheless, the subject of employment warranted a more comprehensive examination than this cursory analysis provided. The framers not only intended for employment to receive protection, but the Supreme Court also provided due process safeguards for employment. If the Court had engaged in value judgements in its equal protection cases, as it was required to do to some degree in due process analysis, it would have likely concluded that employment warranted greater protection than what was afforded by the rationality test. Had the Court embraced the equal protection framework proposed by Justice Marshall, which involved a sliding-scale methodology wherein interests and classifications were evaluated based on their placement along a continuum ranging from the rational basis test to strict scrutiny, it would have been positioned to scrutinise classifications impacting employment interests with the rigour commensurate to the significance of those interests. This methodology, while not devoid of challenges, represented

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<sup>28</sup> *New York City Transit Authority v. Beazer* (Oyez)  
<<https://www.oyez.org/cases/1978/77-1427>> accessed 5 January 2026.

a significantly more meticulous and precise method for addressing equal protection claims related to non-fundamental rights and non-suspect classes. The implementation of this methodology in the case of *New York City Transit Authority v. Beazer* required the consideration of conflicting interests and ultimately led to a conclusion that diverged from, and was potentially more favourable than, the decision rendered by the Supreme Court.<sup>29</sup>

### **Tom F. - Disability Rights, Educational Equity, and the Scope of Public Responsibility**

The case of *New York City Board of Education v. Tom F.* (2007)<sup>30</sup> examined whether the Individuals with Disabilities Education Act (“IDEA”)<sup>31</sup> permits reimbursement of private school tuition where parents unilaterally enrol a disabled child in private education without the child having previously received special education services from a public agency. IDEA conditions federal funding on state compliance with procedural and substantive requirements designed to ensure that children with disabilities receive a free appropriate public education (“FAPE”) through an individualised education programme (“IEP”). Following the 1997 amendments to IDEA, which added a provision authorising reimbursement for parents of children who had “previously received special education and related services under the authority of a public agency,” the New York City Board of Education argued that Congress intended to impose a strict threshold requirement barring reimbursement where a child had never attended public school.

The Board contended that a narrow construction was necessary to respect congressional spending conditions, limit public expenditure, and encourage the mainstreaming of disabled children within public schools. The parents, by contrast, relied on the Supreme Court’s decision in *Burlington School Committee v Massachusetts Board of Education* (1985)<sup>32</sup> and the Second Circuit’s reasoning in *Frank G. v Board of Education of Hyde Park* (2006),<sup>33</sup> arguing that the equitable authority of courts to award “appropriate” relief survived the 1997 amendments. On this purposive reading, reimbursement remained available where a public agency failed to offer FAPE, regardless of prior public school attendance. The dispute exposed a circuit split over the interpretation of IDEA and raised broader questions concerning the balance between federal spending limits,

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<sup>29</sup> Kimberley A Bieter, ‘The Employment Interest and an Irrational Application of the Rationality Test’ (1980) 51 University of Colorado Law Review  
<<https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=2559&context=lawreview>> accessed 5 January 2026.

<sup>30</sup> 552 U.S. 1

<sup>31</sup> Individuals with Disabilities Education Act (IDEA) (including 1997 amendments)

<sup>32</sup> 471 U.S. 359

<sup>33</sup> 459 F.3d 356

deference to public school systems, and parental autonomy in directing special education placement.<sup>34</sup>

The child's father, Mr. Freston, stated that he brought the lawsuit to ensure that public schools provide appropriate services to children with disabilities. His lawyer explained that Mr. Freston rejected the city's proposed programme only after careful review showed it was unsuitable, a conclusion later upheld by both a state hearing officer and a State Education Department appeals officer. The city had offered either placement in a gifted programme or alongside significantly lower-performing students, both of which were inappropriate for the child's needs, leading Mr. Freston to choose private schooling.<sup>35</sup>

### *Penn Central* - Property Rights, Historic Preservation, and Regulatory Takings

*Penn Central Transportation Co. v. City of New York* (1978)<sup>36</sup> is a pivotal Supreme Court decision concerning property rights and historic preservation. The dispute emerged when Penn Central planned to erect a fifty-story structure over Grand Central Station, a site recognised as a national monument. The City of New York rejected this request, prompting Penn Central to contend that this rejection constituted an illegal acquisition of property under the Fifth Amendment.<sup>37</sup> The Supreme Court, in a 6-3 decision, affirmed the city's zoning regulations, holding that they did not unduly infringe upon Penn Central's investment-backed expectations. The ruling established the notion that transferable development rights may possibly mitigate allegations of taking or function as compensation. The verdict emphasised the equilibrium between private property rights and the public significance of historic preservation, illustrating the Court's evaluation of the wider consequences of urban growth. This decision has significantly impacted zoning regulations and discussions around property rights in relation to historic preservation.<sup>38</sup>

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<sup>34</sup> William Grimshaw and Stephen Markus, 'Board of Education of the City of New York v. Tom F.' (Ferve Ozturk ed, LII / Legal Information Institute) <<https://www.law.cornell.edu/supct/cert/06-637>> accessed 5 January 2026.

<sup>35</sup> John Sullivan, 'New York City Loses Special Education Appeal' (New York Times 10 October 2007) <<https://archive.nytimes.com/cityroom.blogs.nytimes.com/2007/10/10/new-york-city-loses-special-education-appeal/>> accessed 5 January 2026.

<sup>36</sup> 438 U.S. 104

<sup>37</sup> Fifth Amendment (Takings Clause, implied in property rights discussions)

<sup>38</sup> Penn Central Transportation Co. V. City of New York | Research Starters | EBSCO Research' (EBSCO2022) <<https://www.ebsco.com/research-starters/law/penn-central-transportation-co-v-city-new-york>> accessed 5 January 2026.

*Penn Central* was adjudicated at a low moment in urban conditions, when deindustrialisation and “White flight” had rendered several U.S. cities chaotic and financially insolvent. Simultaneously, a new urban economy rooted on technology, media, and knowledge started its development. In businesses reliant on advanced services and creativity, the recruitment of skilled and educated personnel has become more essential than legally protected areas for industrial production and logistics. Land use regulations focused on segregating conflicting land uses diminished in significance, but cultivating an urban milieu with cultural and aesthetic allure for highly mobile and educated professionals became essential. Urban redevelopment and highway building were mainly forsaken; municipalities used planning and regulation to promote mixed-use, pedestrian-friendly, culturally rich neighbourhoods. In this framework, historic preservation provided a legal mechanism to promote a vibrant urban atmosphere.<sup>39</sup>

### *Agostini* - Public Funding, Religious Schools, and the Recalibration of Church-State Relations

*Agostini v. Felton* (1997)<sup>40</sup> is a legal case in which the U.S. Supreme Court, on June 23, 1997, ruled (5-4) that the New York City Board of Education's practice of hiring teachers to deliver on-site remedial instruction to educationally disadvantaged students in parochial schools did not contravene the establishment clause of the First Amendment, which generally forbids the government from establishing, promoting, or favouring any religion. The case was atypical as it introduced no new facts, instead including just a review of the Supreme Court's prior ruling in *Aguilar v. Felton* (1985),<sup>41</sup> which arrived at a diametrically opposed outcome. *Aguilar v. Felton* emerged in 1978 when a consortium of taxpayers contested the New York City Board of Education's allocation of federal monies according to Title I of the Elementary and Secondary Education Act of 1965<sup>42</sup> for the remuneration of educators in its remedial education initiative. Title I permits financial support to local educational systems to address the requirements of academically disadvantaged and low-income pupils. The legislation explicitly states that pupils are not required to attend public schools to get educational services.

Subsequent to the U.S. district court's issuance of summary judgement to the defendants, the Court of Appeals for the Second Circuit overturned the ruling. The Supreme Court subsequently upheld the Second Circuit's

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<sup>39</sup> JP Byrne, ‘Penn Central in Retrospect: The Past and Future of Historic Preservation Regulation’ (Georgetown.edu2021)

<<https://scholarship.law.georgetown.edu/facpub/2446/>> accessed 5 January 2026.

<sup>40</sup> 521 U.S. 203

<sup>41</sup> 473 U.S. 402

<sup>42</sup> Title I of the Elementary and Secondary Education Act (1965)

decision, concurring that elements of New York's remedial-education program, specifically the requirement for "pervasive monitoring by public authorities" to guarantee that remedial-education instructors did not intentionally or unintentionally promote religion - represented "excessive entanglement" between government and religion. In *Lemon v. Kurtzman* (1971),<sup>43</sup> the Supreme Court integrated the excessive-entanglement standard into a criterion for establishing violations of the establishment clause, thereafter referred to as the *Lemon* test. Approximately a decade later, the school board, in conjunction with a cohort of parents of parochial-school kids entitled to remedial education under Title I, petitioned the identical district court to vacate the injunction previously established in *Aguilar*.

The foundation of their argument was Rule 60(b)(5) of the Federal Rules of Civil Procedure,<sup>44</sup> which permits a federal court to provide relief from a final judgement if, among other reasons, its prospective application was no longer fair. The challengers said that the Supreme Court's establishment-clause jurisprudence during the past decade was at odds with *Aguilar*, rendering it no longer valid law. The pertinent cases are *Witters v. Washington Department of Services for the Blind* (1986),<sup>45</sup> where the court determined that the establishment clause did not prohibit Washington from providing financial aid to a blind individual attending a Christian college to pursue pastoral, missionary, or youth director roles; *Zobrest v. Catalina Foothills School District* (1993),<sup>46</sup> in which the court ruled that a public school board's provision of a sign-language interpreter for a student at a religious institution did not violate the establishment clause; and *Rosenberger v. Rector and Visitors of University of Virginia* (1995),<sup>47</sup> where the court mandated the University of Virginia to finance the printing of a student publication addressing contemporary issues from a Protestant Christian viewpoint. Recognising earlier precedents, the district court permitted that there may be valid grounds to determine that *Aguilar*'s end was fast approaching. Nonetheless, it rejected the application on the basis that *Aguilar*'s collapse had not yet transpired. Following the affirmation of the judgement by the Second Circuit, the challengers moved to the Supreme Court, which conducted oral arguments on April 15, 1997.

In a majority opinion authored by Justice Sandra Day O'Connor, the Supreme Court annulled the Second Circuit's verdict and abrogated *Aguilar*, so formalising the decision's termination. The court recognised that the *Lemon* test still delineates acceptable government actions under

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<sup>43</sup> 403 U.S. 602

<sup>44</sup> Federal Rules of Civil Procedure, Rule 60(b)(5)

<sup>45</sup> 474 U.S. 481

<sup>46</sup> 509 U.S. 1

<sup>47</sup> 515 U.S. 819

the establishment clause, nevertheless it contended that the three post-Aguilar rulings had altered its comprehension of the standards used to evaluate whether assistance to religion produces an unacceptable result. The court no longer presumes, as established in *Aguilar and School District of Grand Rapids v. Ball* (1985),<sup>48</sup> that any public employee working on the grounds of a religious school would implement religion in their tasks, that the existence of government employees on private school property formed a figurative partnership between church and state, and that any government assistance directly benefiting the educational mission of religious schools incorrectly funded religious indoctrination. Consequently, no objections to New York's remedial education program could be raised on those bases. The court contended that Aguilar's principal assertion of excessive government-religion entanglement was predicated on the erroneous assumption that public employees in religious schools would impart religious teachings, along with other inadequate arguments that failed to substantiate claims of overpowering entanglement, considering the court's developed interpretation of the establishment clause.<sup>49</sup>

## CONCLUSION

The cases arising from New York City underscore the extent to which local disputes can acquire national and even transnational significance. What began as challenges to specific municipal policies - maternity leave rules, zoning decisions, tax exemptions, or governance structures - developed into Supreme Court rulings that reshaped doctrines of municipal liability, equal protection, property rights, and church-state relations. These decisions reveal the Law Department's role as an intermediary between local political realities and the broader constitutional order.

The history of the New York City Law Department and the jurisprudence emerging from its cases demonstrate that municipal law is neither marginal nor parochial. On the contrary, New York City has repeatedly served as the setting in which fundamental questions about state authority, individual rights, and democratic representation have been confronted and resolved. Through litigation conducted - and often strategically shaped - by the Law Department, local disputes have generated doctrines that now structure constitutional law across the United States.

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<sup>48</sup> 473 U.S. 373

<sup>49</sup> Brian Duignan, 'Agostini v. Felton | Law Case' (Encyclopedia Britannica 2014) <<https://www.britannica.com/event/Agostini-v-Felton>> accessed 5 January 2026.

Cases such as *Monell* transformed understandings of governmental accountability, rejecting municipal immunity and affirming the capacity of local entities to violate - and be held liable for - constitutional rights. *Morris* reconfigured the architecture of urban democracy by enforcing the principle of political equality within complex metropolitan governance structures. *Penn Central* recalibrated the balance between private property and collective urban identity, while *Walz* and *Agostini* illustrate the judiciary's shifting approach to religion, public funding, and state neutrality. Even where the Court declined to expand protections, as in *Beazer*, the decisions expose the limits of prevailing equal protection frameworks and the contested status of socio-economic interests within constitutional law. From an international perspective, these developments resonate far beyond New York. Large cities across the world increasingly confront similar challenges: governing diverse populations, regulating land use in global property markets, delivering education and social services within constrained fiscal frameworks, and navigating the relationship between executive power and representative institutions. New York City's experience, and the central role played by its legal administration, offers insights into how law operates as both a constraint on political authority and a tool of governance.

Ultimately, the New York City Law Department exemplifies the growing significance of sub-state legal actors in shaping public law. In an era where cities are key sites of political contestation and innovation, understanding how municipal legal institutions function - and how their cases influence higher courts - is essential. The story told here suggests that international law and politics cannot be fully understood without attention to the legal dynamics of the global city, where local governance and constitutional principle meet.

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