

Speaker Biographies

Wade Beltramo is General Counsel to the New York State Conference of Mayors and Municipal Officials (NYCOM), a voluntary membership association which represents villages and cities in the State of New York. As NYCOM General Counsel, he is responsible for general municipal legal matters as well as building code, property maintenance, justice court, parking and traffic regulations, community and economic development, and local government consolidation and dissolution issues. He has been with NYCOM since April 2002.

Mr. Beltramo joined NYCOM after serving as Assistant Corporation Counsel in the New York City Law Department, where he litigated both civil and criminal cases on behalf of the City's Department of Buildings, Department of Health, Taxi and Limousine Commission, Department of Environmental Protection, and Fire and Police Departments. Prior to working for New York City's Corporation Counsel, he was an analyst in the New York City Mayor's Office of Operations.

Mr. Beltramo graduated from Grinnell College, with a Bachelor of Arts degree in Political Science. He received his Juris Doctorate from Brooklyn Law School

JAMES D. BILIK, ESQ.

James D. Bilik is an arbitrator and mediator with a statewide practice in labor and employment matters. Prior to his career as a neutral, he provided legal counsel to New York State United Teachers for over 26 years, first as a staff attorney and later as Assistant General Counsel. Before that, he was a member of the firm of Gordon & Gordon, P.C. in New York City. As a practicing attorney, he represented public and private sector employees and their unions, and unions as private sector employers, before state and federal courts and administrative tribunals.

Mr. Bilik is Co-chair of the Employment Relations Committee of the Local and State Government Law Section of NYSBA. He graduated from the University of Wisconsin-Madison and Rutgers School of Law.

Andrea Fastenberg

Andrea is a Senior Counsel in the Legal Counsel Division of the New York City Law Department. Andrea provides advice and counselling to the Mayor's Office and to City agencies on questions relating to the Establishment Clause, state and local lobbying laws, FOIL, consumer protection laws, and smoking and health policy. In addition, Andrea helps prepare the City's State and local legislative agendas, reviews state legislation that could affect the City, and works with New York City Council staff on Council initiatives. Before joining the Legal Counsel Division, Andrea worked in the General Litigation Division of the Corporation Counsel's Office, and clerked for Magistrate Michael Dolinger in the Southern District of New York. She is a graduate of Columbia Law School and Harvard College.

PAUL S. KARAMANOL
SENIOR ATTORNEY
NEW YORK STATE LIQUOR AUTHORITY, OFFICE OF COUNSEL

Paul Karamanol has been a Senior Attorney with State Liquor Authority Counsel's Office since January, 2007, and has worked primarily with the Wholesale Bureau since January, 2008 - overseeing investigations into wholesaler and supplier misconduct in the New York alcoholic beverage market. Paul's other legal responsibilities at the SLA include drafting legal memoranda in support of every disapproved license application in the state, bill drafting and legislative tracking, drafting and promulgation of regulatory reform proposals, and responding to industry as well as general public regulatory inquiries.

Before coming to the State Liquor Authority, Paul spent several years as a general practice attorney with the firm of Kurz & Karamanol, LLC, in Guilderland, New York. Paul also worked in the New York State Governor's Office, Executive Chamber, as Counsel to the Appointments Secretary, for both Governors Pataki and Spitzer. Paul also served as a commissioned officer in the United States Navy Reserve, Information Dominance Corps, retiring as a Lieutenant and receiving an Honorable Discharge in February, 2016.

Born in New Jersey, and raised in the Albany, N.Y. area, Paul graduated from Schenectady County Community College in 1993 with an Associate's degree in Humanities and Social Sciences, from the University at Albany in 1995 with a Bachelor's degree in Political Science with a minor in History, and from Albany Law School of Union University in 2002 with a Juris Doctor degree. Paul currently resides in Clifton Park, N.Y. with his wife Nicole and their 2 year old son Brandon.



CHARLES W. MALCOMB

Partner

cmalcomb@hodgsonruss.com 716.848.1261

Chuck concentrates his practice on environmental law, energy law, land-use law, municipal law, and real estate development. He has experience working with both private and public clients on issues involving both state and federal environmental statutes, and he assists municipalities with a wide range of legal issues, including environmental review and zoning.

A primary part of Chuck's work focuses on the State Environmental Quality Review Act (SEQRA) where he has extensive experience guiding municipalities and developers through its requirements. Successful projects include environmental assessments for large-scale telecommunications projects, power generation projects (including some of the largest wind farms in the eastern United States and both utility and small-scale solar projects), infrastructure improvements, and public and private developments, from project inception through successful litigation. He has assisted in drafting scoping documents, environmental impact statements, findings statements, decisions, and guiding public review. Chuck also counsels clients on local, state, and federal permitting processes, including compliance with historic preservation laws, the Clean Water Act, the Clean Air Act, and other federal environmental statutes and regulations.

Chuck frequently gives presentations and provides training programs for local government officials across the State on SEQRA, zoning, environmental law, land-use law, and ethics. He regularly presents at the Summer School and Annual Meetings of the Association of Towns and provides training for the New York Planning Federation. He has trained code enforcement officers and town and village justices on zoning and building code enforcement, and has published articles on investigating and prosecuting violations. In addition, Chuck has provided training to planners and local government officials on NYS Agriculture and Markets law, and the protections applicable to farm operations, including the limitations on municipal regulations.

The Guaranty Building
140 Pearl Street
Suite 100
Buffalo, NY 14202

Practices & Industries

Brownfield Redevelopment
Business Litigation
Cleantech
Environmental
Green Building
Land Use & Economic Development
Municipal
Oil & Gas
Public Authority
Renewable Energy
Wine, Beer & Spirits

Admissions

New York

Education

University at Buffalo, B.A., *Summa Cum Laude*
University at Buffalo School of Law, J.D., *Magna Cum Laude*

CHARLES W. MALCOMB

As part of his municipal practice, Chuck serves as the attorney for an upstate New York municipality addressing the full-range of general municipal issues. He regularly counsels municipal clients on leasing, ethics, environmental matters, zoning, assessment, eminent domain, and procurement. Chuck represents clients engaged in farm operations in County-adopted, State-certified Agricultural Districts and have assisted in securing municipal approvals for operations, including renewable energy projects. He has also defended lawsuits challenging municipal approvals to farm operations. His further litigation experience includes tax assessment matters, land use issues, environmental enforcement, and other issues before administrative and judicial forums. He has drafted laws for municipalities on a variety of subjects.

Chuck also counsels clients in the oil and gas industry on a variety of matters, including environmental compliance and administrative enforcement defense. Chuck and his colleagues represent several oil and gas companies in defending lawsuits alleging pollution resulting from drilling activities.

Chuck has represented clients with matters pending before the State Liquor Authority, including applications for licenses. Specifically, he has provided guidance to wineries and distilleries with respect to licensing issues and compliance with Federal and State laws regulating the sale and consumption of alcohol.

In addition, Chuck is conversant in Russian.

Honors

- Listed, *Upstate New York Super Lawyers* Rising Stars, 2014 - 2019

Experience

Hodgson Russ represented an intervenor supporting a ZBA's interpretation, in a matter requiring an understanding of the interplay of amendments to a municipal zoning ordinance over the last 50 years. The ZBA rendered an interpretation that certain height limitations (imposed as conditions to a prior rezoning) were no longer applicable, but did not issue formal written findings. Hodgson Russ argued, successfully, that the ZBA's decision was a matter of "pure legal interpretation" and that no written findings were required. Supreme Court, Erie County conducted a de novo review and upheld the ZBA's determination. The Fourth Department affirmed.

The Ghent Planning Board issued a Negative Declaration, the Ghent ZBA granted area variances, and the Claverack Planning Board granted site plan approval. Although Hodgson Russ represented the applicant, it took the lead in defending the actions of the municipal boards and prevailed in all three proceedings. Each matter involved the preparation of a certified record, drafting pleadings, and preparing memoranda of law. One required approval, a special use permit from the Ghent Planning Board, was denied. Hodgson Russ successfully challenged this denial as arbitrary and capricious and not supported by the evidence in the record. Supreme Court, Columbia County ordered the approvals be granted. These matters involved the construction of a proposed refrigerated warehouse facility across the border of two towns in Columbia County.

CHARLES W. MALCOMB

A Developer commenced an Article 78 proceeding challenging, among other things, members of a village board of trustees' right to deliberate and vote on a project about which the members expressed personal opinions. The project was a controversial development project and prior to their election, board members had expressed their views on the project, both before and during their campaigns for office. Hodgson Russ represented the board of trustees and its members when the developer argued that the expression of opinions and signing a petition against a project were examples of bias requiring the board members to recuse themselves. Supreme Court, Monroe County agreed and annulled the determination, finding that the board members had a prohibited conflict of interest, and enjoined them from any deliberations or voting with respect to the project. The Fourth Department reversed, holding that mere expressions of opinion, absent more, are not enough to demonstrate bias. Elected, public officials should be free to express their views to their constituents, especially during their run for election. This is a seminal case that clarifies that the mere expression of opinion does not require disqualification of board members.

A petitioner obtained a special use permit and site plan approval for a wind project. Due to delays, the Petitioner applied for the first extension, which was granted. They then changed the project and applied for a second extension, which was denied. The applicable standard is whether there was a change in circumstances that would justify denial of an extension request. The project changes proposed by Petitioner warranted denial. Petitioner then argued that no extension was necessary because the approvals were challenged and the doctrine of equitable tolling extended the durational limits. Hodgson Russ argued successfully that the doctrine of equitable tolling is inapplicable in the State of New York. This decision made new law in the State of New York, specifically, whether the doctrine of "equitable tolling" extended durational limits of permits while litigation challenging those approvals is pending.

Hodgson Russ successfully defended the ZBA before the Supreme Court, Erie County and the Fourth Department. The applicant sought a use variance to permit commercial parking in a residential area, across the street from his commercial operation. The ZBA applied the factors for granting a use variance and issued a written decision. After nearby residents challenged the ZBA's determination granting the use variance on several grounds.

Hodgson Russ represented a citizens group opposed to the development of a casino resort. The town board issued a negative declaration without setting forth its determination, in a written form, providing a reasoned elaboration. Instead, the board's special counsel prepared rationale after-the-fact. Supreme Court, Seneca County approved of this approach, but the Fourth Department reversed. The Fourth Department determined that SEQRA requires the lead agency to set forth its determination in writing to allow intelligent judicial review. After-the-fact rationale should not be considered by the reviewing court. This matter set significant precedent in the Fourth Department.

Hodgson Russ advised the developer on all legal aspects of the permitting and IDA financing of multiple wind energy projects in Western New York providing power for more than 50,000 homes. The projects include over a hundred turbines, over 20 miles of access roads, electric collection systems, an operations and maintenance building, and a substation. Our work included guiding the environmental impact review processes, representing the company at public hearings, obtaining land use permits, defending the company in lawsuits from opposing neighbors, and negotiating road use and host community agreements. We served as local finance counsel in obtaining benefits from the IDA, and all real estate matters related to the project, including survey due diligence and acting as the title examiner for the projects.

CHARLES W. MALCOMB

Since 2012, a Hodgson Russ team led by Mr. Gilbride has represented the Buffalo Sabres and its affiliate, HARBORCENTER, in conjunction with the development of HARBORCENTER, an approximately \$200 million, 600,000-square-foot sports, retail, entertainment, parking, and hospitality complex. This first-of-its-kind mixed-used facility includes two ice rinks; a 19-story, full-service Marriott hotel; a sports-themed nightclub and restaurant; retail space; and an 800-car parking facility, all of which are connected to the existing Key Bank Center via skywalk. Hodgson Russ has worked with the Sabres on all aspects of this project from its inception, including environmental review, contract negotiations, permitting, construction, economic development incentives, financing, and tax planning.

Hodgson Russ has represented many local businesses and developers across New York State, including an 18-hole golf course, a winery, a family-owned meat market, and a developer of a large mixed-use business/residential park. This representation has included state and local code interpretation, analysis of permitting requirements, the preparation and presentation of environmental and zoning applications, and defending approvals and permits in litigation.

After a 13 year battle, the petitioners ultimately failed in their efforts to challenge a law and negative declaration issued by a local town board which prevented them from any mining and excavating to create a stone quarry in a zoning district designated as agricultural/residential. New York's appellate court for the 4th Department determined that the petitioners did not prove a clear conflict between a 2017 town law and the town's comprehensive plan. Charles Malcomb and Dan Spitzer handled this matter on behalf of the town.

Our firm serves as key outside counsel to a California-based energy company regarding their solar development projects. The Hodgson Russ team including Elizabeth Holden, Andrea Gervais, Betsy Mills and Jennifer Anthony provide advice, review and guidance on real-estate based development issues in a time-sensitive and consistent manner for the client's development team across four states. Dan Spitzer, Ryan Cummings, Chuck Malcomb, Mila Buckner and Jennifer Schlumberger provide permitting, PILOT Agreement, contract assistance and litigation support, including a successful Public Service Commission petition on their behalf.

The Appellate Division for the 4th Department unanimously held that the petitioner had no standing to sue in his attempts to challenge a negative declaration issued under the SEQRA by a municipality's Planning Board regarding the demolition and reconstruction of an apartment complex with that city. He did not show the requisite environmental injury that differs from that of the public at large in order to challenge the Planning Board's SEQRA determination. His interest in historic preservation, his interest in photographing the apartment building and his position on the Preservation Board of the municipality were all insufficient to confer standing to sustain the lawsuit. Nor did the petitioner have standing on behalf of the apartment complex tenants. Charles Malcomb and Adam Perry handled this matter on behalf of the property developer.

News

Sixty Hodgson Russ Attorneys Named to 2019 Upstate New York Super Lawyers
Press Release, August 12, 2019

Sixty-One Hodgson Russ Attorneys Named to 2018 Upstate New York Super Lawyers
Press Release, August 20, 2018

CHARLES W. MALCOMB

Hodgson Russ Announces Five Newly Elected Partners, Nine Attorneys Promoted to Senior Associate
Press Release, January 2, 2018

Seventy Hodgson Russ Attorneys Named to 2017 Upstate New York Super Lawyers, Hugh Russ Listed Among Top 50
Press Release, September 6, 2017

Sixty-three Hodgson Russ Attorneys Named to 2016 Upstate New York Super Lawyers, Hugh Russ Listed Among Top 50
Press Release, August 31, 2016

Sixty-Four Hodgson Russ Attorneys Named to 2015 Upstate New York Super Lawyers, Hugh Russ Listed Among Top 50
Press Release, August 19, 2015

Hodgson Russ Announces Five Newly Elected Partners
Press Release, December 30, 2014

ECC Seeks Dismissal of 'Frivolous' Giambra Lawsuit
Buffalo News, December 23, 2014

Oil and Gas Trade Group Sets Agenda for Buffalo Meeting
Buffalo Business First, November 6, 2014

63 Hodgson Russ Attorneys Named to *Super Lawyers* Listing
Press Release, August 14, 2014

Presentations

Zoning & Land Use Fundamentals for Municipal Officials
Millennium Hotel, 2040 Walden Avenue, Cheektowaga, NY, June 13, 2019

Niagara Frontier Section Air & Waste Management Association 2019 Annual Enrichment Seminar
Templeton Landing, Buffalo, NY, January 24, 2019

34th Annual School Client Conference
Millennium Hotel Buffalo, January 18, 2019

New York State Bar Association, Local and State Government Law Section Fall Meeting
Buffalo, New York, September 28-29

WSTBOA Educational Conference
Mayville, New York, September 11, 2018

NYS Economic Development Council 2018 Annual Meeting
NYS Economic Development Council, Otesaga Resort Hotel, May 23 - 25, 2018

Municipal Law Seminar
Millennium Hotel, 2040 Walden Avenue, Cheektowaga, NY 14225, May 17, 2018

CHARLES W. MALCOMB

New York Magistrates Annual Meeting - Zoning Code Enforcements
Verona, NY, October 20, 2017

Are Changes Coming for Environmental Law Under Trump Administration? Exploring Recent Updates
May 2, 2017

Tug Hill Commission Annual Local Government Conference – Ethical Considerations for Planning and Zoning Boards
Watertown, NY, March 30, 2017

Publications

New York Legislature Considering Bill Requiring Prevailing Wage for “Public Work” that has Far-Reaching Implications on Brownfield Development and Other Incentivized Projects
Brownfield Redevelopment Alert & Renewable Energy Alert, June 18, 2019

Appellate Division Upholds IDA Denial of Application and Confirms Attorneys’ Fees Award
Municipal Law Alert, May 22, 2019

Federal Court Rules Refunded NYS Brownfield Tax Credits Are Taxable Federally
Environmental Law Alert, May 7, 2019

New York Supports Energy Storage Efforts With \$280 Million Allocated by New York State for Energy Storage Projects
Renewable Energy Alert, May 6, 2019

New Jersey Economic Development Authority Creates New Brownfields Loan Program
Environmental Law Alert, April 22, 2019

\$8 Million in Supplemental Funds Made Available by the U.S. Environmental Protection Agency for Brownfields Revolving Loan Grant Funds
Environmental Law Alert, April 18, 2019

Small Cell Aesthetic Regulation Deadline
Municipal Law Alert, February 27, 2019

Public Service Commission Clarifies Calculation of 5 MW Limitation Rules
Renewable Energy Alert, February 13, 2019

New York State Drinking Water Quality Council Recommends Strictest Regulations of PFOA, PFOS, and 1,4 dioxane in Drinking Water
Increased Regulatory Requirements and Water Infrastructure Investment Likely in 2019
Environmental Alert, December 21, 2018

CHARLES W. MALCOMB

NYSERDA's *Municipal Solar Procurement Toolkit* Promotes The Development Of Solar Projects On Brownfields And Landfills

Renewable Energy Alert, November 20, 2018

Social Media

Chuck contributed to Hodgson Russ's Clean and Green Law blog. His entries included:

- "Cuomo Announces State Investment of \$225 Million Toward the Buffalo High-Tech Manufacturing Innovation Hub," November 25, 2013
- "Solar Balance of System (BoS) Cost Continues to Be the Focus of Cost-Reduction Strategy," August 20, 2013
- "Will President Obama's Climate Change Policy Impact the 2014 Midterm Elections?," July 3, 2013
- "Proposed Amendments to New York's State Environmental Quality Review Act Do Little More Than Provide Lip Service to Sustainability," January 28, 2013
- "Will the Wind Energy Production Tax Credit Play a Major Role in the 2012 U.S. Presidential Election?," August 15, 2012

Professional Affiliations

- Environmental Law Institute
- New York State Bar Association
- Bar Association of Erie County

Community & Pro Bono

- Rivershore Foundation, Inc. board member

Hon. James T. McClymonds
Chief Administrative Law Judge
New York State Department of Environmental Conservation
Office of Hearings and Mediation Services
625 Broadway, 1st Floor
Albany, New York 12233-1550

(518) 402-9003

james.mcclymonds@dec.ny.gov

BIOGRAPHY

James T. McClymonds is the Chief Administrative Law Judge for the New York State Department of Environmental Conservation. Judge McClymonds has held that position since March 2003. Prior to that, Judge McClymonds served almost ten years at the New York State Court of Appeals, where he worked as a staff attorney and supervising staff attorney on the Court's Central Staff, and later as principal law clerk to Associate Judge Howard A. Levine and, briefly, to Associate Judge Susan P. Read. Judge McClymonds is a graduate of New York Law School, where he received a J.D. magna cum laude in 1993.

In addition to other professional activities, Judge McClymonds is a member of the Local and State Government Law Section of the New York State Bar Association (NYSBA), and is co-chair of that section's Committee on the Administrative Law Judiciary. Judge McClymonds was also a member of NYSBA's former Committee on Attorneys in Public Service (CAPS), and was a co-chair of that Committee's Subcommittee on the Administrative Law Judiciary from 2004 to 2009. In that capacity, Judge McClymonds coordinated the development of the Model Code of Judicial Conduct for State Administrative Law Judges, which was adopted by the NYSBA House of Delegates in April 2009.

Judge McClymonds is a regular presenter of Continuing Legal Education programs for State agencies and bar associations, including NYSBA. Judge McClymonds has presented on topics such as ethics for administrative law judges, the State Administrative Procedure Act and administrative adjudicatory processes, adjudicatory proceedings before the Department of Environmental Conservation, mediation and alternative dispute resolution, and civil practice before the New York State Court of Appeals. In 2018, Judge McClymonds presented the New York Law Course on Administrative Law for the New York State Board of Law Examiners.