



## Making New York City a Greener Place

THE DENSELY PACKED urban environment of New York City raises complex and unique challenges that impact the health of its residents. Between 2010 and 2017, New York City's population growth represented 95 percent of the total increase in population in New York State. Nonprofit organizations' community-building activities contribute to better open space, parks, air, water, and streetscapes to improve the health of New York City residents and the environment. Lawyers Alliance and its volunteer attorneys support the work of these nonprofits that are making a difference in all five boroughs.

### **Bronx:** Regulatory Compliance

**Bronx River Alliance** serves as a voice for the Bronx River and works in partnership with the community to protect, improve, and restore the river's corridor and greenway so they are a healthy ecological, recreational, educational, and economic resource for the communities through which the river flows. As many of the Bronx River Alliance's initiatives focus on advocacy, including educating and urging action from elected officials, the organization required legal assistance in understanding lobbying laws and compliance requirements. Pro bono counsel at **Herrick, Feinstein LLP** assisted Bronx River Alliance by providing guidance for complying with State and City lobbying registration and reporting requirements.

### **Brooklyn:** Contract

**Prospect Park Alliance** (the Alliance) works in partnership with the City of New York and the local community to restore, develop, and operate Prospect Park for the enjoyment of all by caring for the natural environment, preserving historic design, and serving the public through facilities

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Credit: Hunters Point Parks Conservancy

**Hunters Point Parks Conservancy hosts bi-weekly clean-up events and educates the community about the waterfront.**



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and programs. The Alliance promotes awareness of the park as an environmental resource, organizes special events in which residents can participate, and runs projects to redevelop park facilities and amenities. Volunteer attorneys from **Norton Rose Fulbright LLP** assisted the Alliance with drafting a services agreement with an event production firm for a June 2018 pop-up dinner party in Prospect Park, to raise funds and awareness for Prospect Park Alliance. The event was attended by 4,000 supporters of the park and the legal assistance allowed the Alliance to appropriately manage its financial risk and benefits.

## **Manhattan: Intellectual Property**

**Hudson River Park Trust** (the Trust) is a partnership between New York State and City charged with the design, construction, and operation of the four-mile Hudson River Park, which is the largest open space project to undergo construction in Manhattan since the completion of Central Park. The park offers a wide range of opportunities for sports, exercise, recreational, arts and cultural, and educational activities, all provided free or at nominal cost to the public. After a re-branding process the Trust sought to protect its new logo and brand design. Pro bono counsel from **Steptoe & Johnson LLP** assisted the Trust with applying for trademark registration for its logo and brand and assisted in clarifying intellectual property issues in agreements with third parties.



Credit: Hudson River Park Trust

**Hudson River Park Trust is charged with the design, construction, and operation of the four-mile Hudson River Park.**

## **Queens: Employment**

**Hunters Point Parks Conservancy** (HPPC) works to enrich the quality of life in Hunters Point by preserving and enhancing its parks, green spaces, and waterfront in partnership with the community. It hosts bi-weekly clean-up events and a range of special events and programs to enhance artistic, play, and recreational opportunities, and educates the community about the environmental concerns of the waterfront. HPPC engages several independent contractors who deliver special events, classes, and shows. Pro bono counsel from **Dechert LLP** reviewed and revised HPPC's independent contractor agreement to ensure it contains all relevant terms and complies with a new New York City law regarding freelance workers. Barbara Etzel, HPPC's Treasurer, says, "It seems like each week there is a new law or regulation that you must comply with. It's very helpful that the volunteer attorneys are available to help navigate these complexities."

## **Staten Island: Corporate**

**Natural Areas Conservancy** (NAC) is a champion of New York City's 20,000 acres of forests and wetlands for the benefit and enjoyment of all. Its team of scientists and experts promote nature's diversity and resilience across the five boroughs, making the City a healthier and more vibrant place in which to live and thrive. To promote the long-term health of the City's forests, NAC works with the City of New York at the Greenbelt Native Plant Center in Staten Island, supporting the production of locally-sourced native plants and conserving genetic material from plants in a seed bank. Pro bono counsel at **Stroock & Stroock & Lavan LLP** assisted NAC with legal guidance regarding transitioning out from its fiscal sponsor, the City Parks Foundation, to the next stage of its growth. Sarah Charlop-Powers, NAC's Executive Director, says, "The Stroock team assisted in our transition from working with a fiscal sponsor to utilizing our organization's 501(c)(3) status. They were thoughtful in advising on the transition and in ensuring that our organization is well prepared moving forward."

## Lawyers Alliance Board of Directors

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## Meet Peter Labonski, Lawyers Alliance's New Board Chair

Lawyers Alliance's Board of Directors elected **Peter M. Labonski** of Latham & Watkins LLP as the new Board Chair. Mr. Labonski, who joined the Board in 2015, succeeds **Larren M. Nashelsky** of Morrison & Foerster LLP. We thank both Mr. Labonski and Mr. Nashelsky for their leadership.

### *What motivated you to become and remain involved with Lawyers Alliance?*

My initial involvement with Lawyers Alliance stemmed from my relationship with [Latham & Watkins] partners David Gordon and Miles Ruthberg, who were instrumental in making Lawyers Alliance an important priority of our firm. Both Dave and Miles believed Lawyers Alliance's ability to positively impact the New York pro bono community made it the preeminent pro bono organization in New York City. Lawyers Alliance's success in directing meaningful transactional pro bono matters to Latham cemented the relationship. Our commitment to pro bono continues to be one of our cultural priorities and Lawyers Alliance is a strategic partner in that it provides access for our lawyers to some of the most cutting edge pro bono transactional work in the market.

### *It's an exciting time at Lawyers Alliance, with our 50th Anniversary on the horizon. What do you look forward to most in your role as Board Chair?*

As the new Board Chair, I look forward to working with the tremendously talented Board and Executive team at Lawyers Alliance to continue and expand upon our mission of serving the New York City pro bono community. To that end, extending existing relationships and developing new ones within the New York legal and business community is an incredibly important element of Lawyers Alliance's mission and our 50th Anniversary provides us with an excellent fundraising and brand development opportunity.

### *As a pro bono leader, how is Latham & Watkins encouraging business and transactional lawyers to engage in pro bono?*

Latham & Watkins has a long-standing commitment to providing pro bono legal services, financial support, and volunteer time to those most in need within our communities. Latham's dedication to pro bono work is a source of pride and reflects a fundamental part of the firm's culture. Each year, our lawyers and professional staff take on matters in nearly every area of public interest law, including veterans' rights, asylum and immigration, domestic violence, Holocaust reparations, anti-human trafficking, prisoners' rights, microfinance and social entrepreneurialism, children, and civil rights.

Latham & Watkins is one of Lawyers Alliance's most active pro bono firms, with 24 open matters in the past year. Recent projects include a complex triple net lease for a charter school in the Bronx; governance documents for a social services organization in upper Manhattan; a vendor agreement for a nonprofit providing support to families dealing with major illnesses; and contracts with partner schools and mentors for a summer academic support organization. One client reported, "The attorneys served as true thought partners throughout the process." Another said, "The Latham & Watkins team went above and beyond the call of duty. They not only helped us with several contracts, they even joined us in the field."



**Peter M. Labonski**

# The Law of “the Ask”

Fall traditionally marks a spike in charitable giving, prompted by people’s generosity near the holidays, their desire to donate by the close of a tax year, and a flurry of fundraising events. Independent Sector projected that the 2017 Tax Cuts and Jobs Act’s higher standard deduction may decrease nationwide charitable giving by billions of dollars. Lawyers Alliance recognizes that it is as important as ever for charities to be active and legally compliant in donor cultivation and fundraising.

## Gift acknowledgements

Most 501(c)(3) organizations qualified to receive tax-deductible contributions are listed in the Internal Revenue Service’s Tax Exempt Organization Search, available via [www.irs.gov](http://www.irs.gov). Understanding what items are and are not tax-deductible, and what acknowledgements their donors need and expect, helps with donor communications. For example, donated cash or property generally is tax-deductible within certain limits, whereas the value of donated time or services is not tax-deductible. For quid pro quo contributions, when a donor contributes \$75 or more and receives something of value in return, the organization is required to provide the donor with a written disclosure stating that value.

**Case example: Brooklyn Community Foundation** utilizes grants, strategic initiatives, and programs to mobilize people, capital, and expertise for a fair and just Brooklyn. Pro bono counsel from **Cleary Gottlieb Steen & Hamilton LLP** provided guidance that clarified when and how the organization could accept a certain type of donated securities.

## Event and corporate sponsorship agreements

Nonprofits often enter agreements with venues, vendors, and corporate sponsors. Nonprofits can manage risk by reviewing and negotiating contract terms, including those related to costs, minimums, changes, payment, disclosure, and termination. Unforeseen circumstances can derail a well-planned event, and it is good practice for organizations to check their general liability policy or obtain an event rider to ensure appropriate insurance coverage.

**Case example: Women’s Strength Coalition** raises funds to offer free and low-cost strength training for underserved populations, and for women with histories of trauma and abuse. It is receiving legal assistance through Lawyers Alliance about how to establish and

document a corporate donation as a qualified sponsorship payment. Pro bono counsel from **Allen & Overy LLP** helped by reviewing its corporate pledge agreement with Reebok for the #BeMoreHuman campaign.

## Gift policies and restrictions

Donor gift instruments and language in solicitation requests may restrict the purpose or time for using certain funds. Endowment funds are subject to special legal requirements. Counsel can guide nonprofits on gift policies, the process for seeking relief from gift restrictions, and investment policies.

**Case example: Historic Districts Council** works to preserve significant historic neighborhoods, buildings, and public spaces in New York City. When it sought to review its gift acceptance practices, pro bono counsel from **Steptoe & Johnson LLP** stepped up to update its policy.

## Reporting responsibilities of soliciting organizations

Most soliciting nonprofits meeting certain income thresholds must file a Form 990 or alternative form with the IRS and annual financial reports with the state charities office. These forms provide the public with financial, governance, and compensation information, and government agencies may review them to prevent misuse of tax-exempt status or assets. With an organization’s accountants, Lawyers Alliance can help nonprofit managers to understand what forms are necessary and to develop best practices consistent with what government agencies and the public expect to see. Contact Lawyers Alliance’s Resource Call Hotline at (212) 219-1800 ext. 224 with general inquiries about fundraising law and regulation.

Lawyers Alliance wishes the nonprofit sector, its volunteers, and supporters a joyous, productive, and legally compliant fundraising year!



Credit: John Keon

**Historic Districts Council works with communities across New York City to preserve historic neighborhoods and public spaces.**

# Nonpartisan Election-Related Work

With control of the federal and New York State legislatures in play, the 2018 elections are a busy time for nonprofit organizations. Some are training women or immigrants to run for office. Others are registering voters, educating community members about candidates' positions, and getting out the vote. Still others are advocating for their communities before elected officials who happen to be running for re-election, or fielding requests from candidates who want photo ops with nonprofits' members and clients. While the Internal Revenue Code allows all tax exempt organizations to encourage civic engagement, 501(c)(3) nonprofits may not support or oppose a particular candidate for elected office. Even nonprofits that are not involved in electoral activity need guidance about when candidates may appear at the organization's events and interact with the nonprofit in other ways.

Here is a list of activities that a 501(c)(3) organization **CAN** undertake, with some tips for keeping each activity nonpartisan:

## Educate candidates and the general public about issues.

- Make the information equally available to all candidates, for instance by posting it on your website.

## Conduct issue advocacy.

- Document the advocacy's real, non-electoral purpose in any communications with an incumbent running for office, and also in board minutes, resolutions, or a strategy memo.
- Focus on the substance of the issue, not on the candidates.
- Adopt a communications policy with clear guidelines for avoiding involvement in partisan politics.
- Don't time your advocacy campaigns to coincide with election season.

## Publish a scorecard indicating how legislators voted on particular legislative issues.

- Don't comment on candidates' qualifications or suggest support for or opposition to their candidacy.

## Prepare a candidate questionnaire and create a nonpartisan voter guide.

- Questions should not suggest right or wrong answers or reflect the organization's agenda or preferences.

- Focus on multiple issues.
- Distribute the questionnaires to all candidates, and try to get a response from each one.

## Sponsor a candidate debate or forum.

- Invite all candidates. If the election is for a federal position, do not hold the event unless at least two candidates participate.
- Include nonpartisan questions on a broad range of topics.

## Conduct a nonpartisan voter registration drive and work to get out the vote.

- Do not target specific demographic groups or geographic areas in order to affect the election, although you may target certain groups because they are underrepresented.
- Focus on multiple issues, not just one.

## Sell, trade, or rent a mailing list, conference room, or other resources to candidates.

- Charge fair market value.
- Make the list or space equally available to all candidates on the same terms.

## Additionally, staff of 501(c)(3) organizations have a First Amendment right to conduct political activities on their own time.

- Implement a policy barring staff from using organizational resources such as e-mail, computers, or phones for their personal political work.
- Staff should participate in their own name.

There are many ways that lawyers can support nonprofit organizations that promote nonpartisan civic engagement. Lawyers Alliance client **New American Leaders** prepares foreign-born Americans and their U.S.-born children to run for public office. Recently, volunteer attorneys from **Manatt, Phelps & Phillips, LLP** helped New American Leaders draft an agreement protecting its intellectual property rights in, and minimizing the legal risks raised by, a series of joint trainings that it will conduct with another nonprofit organization. With this help, New American Leaders is ready to work closely with its partner to train future candidates how to message, target, fundraise, and run as community-centered candidates.

## Lawyers Alliance Staff

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*Staff Attorney*

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*Cleary Extern, Staff Attorney*

Neil Stevenson  
*Senior Staff Attorney*

James Valentin  
*Development Coordinator*



# Lawyers Alliance *for* New York

171 Madison Avenue  
Sixth Floor  
New York, NY 10016

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## Law Firm Appeal Reaches New Heights

Thanks to our outstanding co-chairs, **Michael A. Gerstenzang** and **Breon S. Peace** of Cleary Gottlieb Steen & Hamilton LLP, Lawyers Alliance's law firm appeal reached a new record high. The 2017-2018 appeal raised \$903,900 from 81 participating law firms. This support helps Lawyers Alliance and its

staff-supported pro bono program to provide business and transactional legal services to hundreds of nonprofit organizations that benefit low-income New Yorkers of all ages. We thank the following firms that contributed \$1,000 or more to the annual appeal for their generous support:

Akin Gump Strauss Hauer  
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