

 [Click to Print](#) or Select 'Print' in your browser menu to print this document.

Page printed from: [New York Law Journal](#)

NYU Wins Bid for \$6 Billion Greenwich Village Expansion

Tania Karas, New York Law Journal

October 15, 2014

A Manhattan appeals court has paved the way for New York University to proceed with a controversial \$6 billion expansion plan, overturning a lower court's ruling that would have blocked much of the development.

[Tuesday's unanimous Appellate Division, First Department, decision](#) clarified the definition of "public park land" in the city to include only land that is formally dedicated for public use.

At issue in the case are three slivers of green space in Greenwich Village. NYU's development plans entail building additional faculty and student housing, community space and academic buildings for its Washington Square campus by 2031. The City Council approved the 1.9 million-square-foot expansion in 2012.

Residents and neighborhood activists challenged the project in a July 2012 lawsuit. They argued the city had violated the common-law public trust doctrine because the spaces had long served as de facto parks and could not be "alienated" without approval from the state Legislature.

In [a Jan. 7 decision](#) in *Glick v. Harvey*, 103844/12, Manhattan Supreme Court Justice Donna Mills ([See Profile](#)) found that three of four parcels on which NYU proposed to build had been "impliedly" dedicated as public park land ([NYLJ, Jan. 9](#)). NYU needed Legislative approval before any construction, Mills wrote.

The city and NYU appealed. At a hearing last month before the First Department, city Law Department senior counsel Michael Pastor argued that the parcels are owned by the city and designated as streets. And the city Department of Parks and Recreation routinely maintains underutilized green spaces and properties on a temporary basis while they remain available for other municipal uses, the city said.

In an unsigned decision, Justices John Sweeny Jr. ([See Profile](#)), Dianne Renwick ([See Profile](#)), Richard Andrias ([See Profile](#)) and Darcel Clark ([See Profile](#)) ruled that in the absence of a formal dedication of land for public use, the opponents of the expansion plan had to demonstrate that the city had intended to dedicate it.

"Here, petitioners have failed to meet their burden of showing that the city's acts and declarations

manifested a present, fixed and unequivocal intent to dedicate any of the parcels at issue as public parkland," the justices wrote. "While the city has allowed for the long-term continuous use of parts of the parcels for park-like purposes, such use was not exclusive."

Furthermore, the justices continued, the parks department's maintenance of the parcels was "temporary and provisional," and the city maps them as streets, not parkland.

In a statement, John Beckman, a spokesman for NYU, said the school is "very pleased."

"The need for additional academic space is clear and has been reaffirmed by a faculty-led committee, and it is now also clear that the university has the legal right to proceed with this project," he wrote.

Cooley LLP partners Celia Goldwag Barenholtz and Alan Levine represented NYU, along with associates Genevieve York-Erwin and Michael Blasie.

In a separate statement, the city Law Department said the decision enables its parks department to continue maintaining unused land as needed.

"We are pleased that the court confirmed that the Parks Department can temporarily manage or beautify underutilized parcels of public land, which greatly benefits city residents, without surrendering the city's ability to use that land for other purposes when warranted," Law Department spokesman Nicholas Paolucci said in an email.

The residents will appeal, said their attorney, Randy Mastro, a partner at Gibson, Dunn & Crutcher.