

Rail, Transit, Highways, and Infrastructure

We have expertise in the broad range of rail and transit safety, regulatory, and compliance issues relating to surface transportation law that includes hazardous materials transportation, driver drug testing, transportation finance and grants, and the regulation of freight rail operations. Our attorneys advise our clients on strategic, legal, and policy approaches to plan, build, and operate fixed guideway public transportation projects.

Kaplan Kirsch & Rockwell's rail and transit clients include:

- Municipalities and counties
- Public rail transportation providers
- State departments of transportation
- Rail-to-trail project sponsors
- Private property owners who are engaged in the passenger or freight rail industry or are interacting with freight railroads

The increasing demand for both freight and passenger service over the nation's rail network requires the careful negotiation of agreements for access to and use of rail corridors, disposition of rail property, vigorous representation of our clients' interests in the allocation of limited rail resources, and meticulous pursuit of any necessary regulatory approvals.

Representative Projects

- **Ownership and Right of Use:** Negotiated with freight railroads and Amtrak; provided counsel on regulatory requirements and the acquisition of ownership or other rights to use rights-of-way; advised and negotiated arrangements for shared use of the corridors or tracks by freight, intercity passenger, regional/commuter passenger, and light rail/transit operations.
- **Disposition of Rail Property:** Provided strategic advice, regulatory analysis, and recommendations concerning the sale or transfer of rail property.
- **State and Local Government Representation:** Our practice reflects a particular focus on representation of state and local governments, including transit and rail authorities, facing issues involving interaction with the railroads that serve their communities. This includes developing plans for new, continuing, or expanding commuter rail and transit service; the establishment of railbanking arrangements; and other issues related to the presence of the railroads in the community. For commuter rail and transit operators, this work includes assessing how to identify and secure right-of-way; negotiating with and selecting operators of the commuter service; and addressing regulatory, environmental, labor, and other issues that arise in the development and operation of urban rail systems. Our work often includes representation to address environmental, competitive, service quality, and other issues.
- **Federal Representation:** We regularly practice before the following regulatory bodies:
 - U.S. Department of Transportation
 - Federal Railroad Administration
 - Federal Transit Administration
 - Railroad Retirement Board
 - Surface Transportation Board
- **Project Development:** We regularly advise clients in preparing, drafting, and negotiating agreements for all aspects of project development, including consultant and construction contracts,



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agreements with freight railroads, and operating and maintenance agreements. Negotiations frequently must address:

- Federal procurement requirements, including Buy America
- Surface Transportation Board licensing requirements
- Americans with Disabilities Act requirements
- Railbanking
- Environmental and historic preservation reviews
- Labor and employment issues
- Rail and transit safety analysis and compliance
- Project funding and financing, including the use of federal loan and grant programs
- Multi-party project planning and public outreach
- **Litigation:** We litigate in many federal district courts, most federal courts of appeals, as well as many state courts.

Related Practices

Environmental Impact Reviews

Freight Issues

Hazardous Materials and Safety

Highways

Historic Resources

Labor and Employment

Legislative Drafting and Lobbying

Multi-Modal Transportation Facilities

Public Procurement

Rail and Transit Litigation

Rail Facilities

Railbanking

Section 4(f) and Section 6(f)

Site Cleanup and Compliance

Surface Transportation Project Delivery through P3s

Transit and Commuter Rail

Transit-Oriented Development