



Albuquerque Rapid Transit (ART) BRT

Our client, the City of Albuquerque, has been planning to build a bus rapid transit project—known as Albuquerque Rapid Transit or ART—for a number of years. The ART Project will be a centerpiece of Albuquerque’s revitalization efforts and will operate on a 14-mile section of Central Avenue, a part of the famous Route 66, connecting neighborhoods and employment centers and improving mobility for Albuquerque residents, including low-income populations in particular. In 2015, the City obtained Federal Transit Administration (FTA) approvals under the National Environmental Protection Act (NEPA) and the National Historic Preservation Act (NHPA), clearing the way for construction to start. After the Albuquerque city council gave its final approval for ART, two groups of plaintiffs representing individuals and businesses along Central Avenue sued the City and the FTA seeking an injunction to stop construction, alleging violations of NEPA, the NHPA, and several state and city laws.

The City retained Kaplan Kirsch & Rockwell to handle the litigation, and the Firm acted as lead counsel in an expedited process that lasted almost six months. One case was filed in federal court and one case in state court. We successfully removed the state suit to federal court and consolidated the two cases.

Because the City needed a decision quickly in order to finalize its construction schedule, we obtained an accelerated schedule on Plaintiffs’ Motions for Preliminary Injunction and worked with FTA’s counsel to prepare an expedited administrative record.

After an accelerated briefing schedule and a three-day evidentiary hearing, Judge Kenneth Gonzales of the U.S. District Court for New Mexico issued a 14-page decision denying the injunction and finding, in particular, that allowing ART to proceed was in the public interest. The plaintiffs immediately appealed that decision to the Tenth Circuit and sought an emergency stay pending appeal. We prepared a response in less than 36 hours, resulting in the Court denying that request for a stay, later denying a second request for an emergency stay, and setting an accelerated briefing and argument schedule. After an oral argument in which we argued on behalf of the City, the Tenth Circuit affirmed Judge Gonzales’ decision in a thorough 57-page decision that found none of the plaintiffs’ arguments have merit.

Because of the wide range of issues raised by the plaintiffs and the expedited schedule, we drew on the expertise of almost half of the Firm’s attorneys and staff to meet the courts’ deadlines. Kaplan Kirsch & Rockwell’s collective teamwork and expertise paid off, enabling the City to maintain its construction schedule that will allow ART to begin operations in 2017.

Related Practices

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