

**Court St. Merchants Assn. Inc. v City of New York**

2026 NY Slip Op 30227(U)

January 12, 2026

Supreme Court, Kings County

Docket Number: Index No. 537570/25

Judge: Inga M. O'Neale

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At an IAS Term, Part 7 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 12<sup>th</sup> day of January, 2026.

P R E S E N T:

HON. INGA M. O'NEALE,  
Justice.

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COURT STREET MERCHANTS ASSOCIATION INC.,

Petitioner/Plaintiff,

-against-

Index No.: 537570/25

THE CITY OF NEW YORK, THE NEW YORK CITY DEPARTMENT OF TRANSPORTATION and YDANIS RODRIGUEZ, AS COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF TRANSPORTATION,

Respondents/Defendants.

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The following e-filed papers read herein:

NYSCEF Doc Nos.:

Notice of Motion/Order to Show Cause/ Petition/Cross Motion and Affidavits (Affirmations) Annexed _____	<u>1, 6-7, 14, 16-19, 24, 37-38, 50</u>
Opposing Affidavits (Affirmations) _____	<u>23, 27-28, 48, 77, 79-80, 82, 87</u>
Affidavits/Affirmations in Reply _____	<u>53, 55-56, 58, 63, 65, 67-68, 70, 75</u>
Memoranda of Law _____	<u>15, 36, 46, 52, 64, 76</u>

Upon the foregoing papers, in this hybrid CPLR article 78 proceeding and declaratory judgment action (CPLR 3001), petitioner/plaintiff Court Street Merchants Association Inc. (petitioner) alleges that the respondents/defendants the City of New York (City), the New York City Department of Transportation (DOT), and Ydanis Rodriguez, as Commissioner of the New York City Department of Transportation (Commissioner) (collectively referred to as respondents) acted arbitrarily and capriciously in connection

with a project on Court Street in Brooklyn involving the alteration of traffic patterns and parking lanes and the creation of a protected bike lane. Additionally, petitioner asserts that respondents' actions violated petitioner's equal protection rights under the Fifth and Fourteenth Amendments to the United States Constitution, constituted an Intentional Interference with Economic Advantage and Business Expectancy and seeks a preliminary injunction, permanent injunction, and monetary damages (motion sequence number 1). Respondents oppose the article 78 portion of the petition/complaint and move, pursuant to CPLR 3211 (a) (7), for an order dismissing the second, third, fourth and fifth causes of action on the ground that they fail to state a cause of action (motion sequence number 2).

Respondents' motion (motion sequence number 2) is granted and the second, third, fourth and fifth causes of action of the petition/complaint are dismissed.

Petitioner's motion for a preliminary injunction is denied and the article 78 petition is denied and dismissed (motion sequence number 1).

### **BACKGROUND**

This proceeding/action arises out of the DOT's actions in changing the traffic design (the Project) on a 1.3 mile stretch of Court Street extending from its intersection with Schermerhorn Street south to its intersection with Hamilton Avenue (the Corridor). More specifically, the Project modifies Court Street within the Corridor from a configuration consisting of two southbound travel lanes with parking on both sides of the street, to a layout that includes a curbside protected bike lane, a buffer zone, a parking lane, a single

southbound travel lane and an additional parking lane.<sup>1</sup> The design changes also include the installation of pedestrian crossing islands, the addition of commercial loading zones, and the implementation of traffic-calming features at intersections intended to reduce vehicle turning speeds.<sup>2</sup>

In the petition/complaint (NY St Cts Elec Filing [NYSCEF] Doc No. 1), petitioner contends that these changes will have an adverse impact on local businesses by impeding accessibility for delivery trucks and express mail trucks that supply the stores, restaurants and businesses that face Court Street along the length of the Corridor at issue (petition/complaint ¶¶ 29-42). Petitioner asserts that the design changes will impede truck accessibility by, among other things, restricting deliveries to “floating” loading zones that are separated from the sidewalk by the buffer and bicycle lane (petition/complaint ¶ 33). Petitioner further alleges that the safety of the delivery workers will be compromised because they will be required to cross the bicycle lane, while avoiding bicycles and electric bicycles, when transporting materials and goods from the floating loading zone to the sidewalk (petition/complaint ¶¶ 35-37). Petitioner also contends that pedestrians accessing businesses, schools, and houses of worship will likewise face “increased danger” when crossing Court Street, as they too must navigate bicycle traffic, as will individuals who must cross the bike lane to reach vehicles parked or stopped in the adjacent parking or loading lane (petition/complaint ¶¶ 44-45, 50). Petitioner additionally asserts that

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<sup>1</sup> The DOT drawings showing the old and new street layout design are appended as Appendix 1. The drawings are taken from the DOT’s presentation made to Community Board 6 (NYSCEF Doc No. 29).

<sup>2</sup> These features are largely shown in DOT drawings attached to appendix 2. The drawings are taken from the DOT’s presentation made to Community Board 6 (NYSCEF Doc No. 29).

emergency services will be adversely affected because fire trucks, police vehicles and ambulances responding to emergencies are likely to block the single remaining travel lane thereby impeding the ability of secondary responders to reach the scene (petition/complaint ¶¶ 57-65). Finally, petitioner alleges that the protected bicycle lane itself does not necessarily enhance safety for the cyclists (petition/complaint ¶¶ 66-70). Aside from these allegations regarding the safety of the redesigned traffic pattern and its impact on businesses, petitioner asserts that the DOT failed to demonstrate that it gave notice to the police and fire departments as required by Administrative Code of the City of New York § 19-101.2 (j) or meaningfully engaged local businesses regarding community concerns (petition/complaint ¶¶ 71-81).

Based on these factual allegations, petitioner brings this hybrid proceeding and action asserting that the DOT's plan is arbitrary, capricious and an abuse of discretion and that, as a result, it is entitled to a judgment annulling the DOT's determination and restoring Court Street to its prior configuration (First Cause of Action) (petition/complaint ¶¶ 82-97). Petitioner further asserts causes of action alleging equal protection violations (second cause of action) (petition/complaint ¶¶ 98-112); intentional interference with economic advantage and business expectancy (third cause of action) (petition/complaint ¶¶ 113-122); and seeks a declaratory judgment in its favor (fourth cause of action) (petition/complaint ¶¶ 123-128); a permanent injunction barring the DOT from implementing the Project and restoring Court Street to its previous configuration (fifth cause of action) (petition/complaint ¶¶ 129-139); and monetary damages (petition/complaint wherefore clause).

## DISCUSSION

### *Article 78*

“In reviewing an administrative agency determination, [courts] must ascertain whether there is a rational basis for the action in question or whether it is arbitrary and capricious” (*Matter of Gilman v New York State Div. of Hous. & Community Renewal*, 99 NY2d 144, 149 [2002] [citation omitted]; see also *Government Employees Ins. Co. v Mayzenberg*, --- NY3d ---, 2025 NY Slip Op 06527, \*2 [2025]). An action is arbitrary and capricious when it is taken without sound basis in reason or regard to the facts (see *Matter of Peckham v Calogero*, 12 NY3d 424, 431 [2009]; *Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d 222, 231 [1974]). “If the court finds that the determination is supported by a rational basis, it must sustain the determination even if the court concludes that it would have reached a different result than the one reached by the agency” (*Matter of Peckham*, 12 NY3d at 431; see *Matter of Pell*, 34 NY2d at 231).

The DOT has broad authority over New York City streets. This authority includes the power to “establish, determine, control, install and maintain the design, type, size and location of any and all signs, signals, marking, and similar devices . . . for guiding, directing or otherwise regulating and controlling vehicular and pedestrian traffic in [City] streets . . . .” (New York City Charter § 2903 [a] [2]). The DOT also has “charge and control” of “designing, constructing and repairing of public roads” and “paving, repaving, resurfacing and repairing of all public roads [and] streets. . . .” (New York City Charter § 2903 [b] [2] and [3]).

In addition to this broad authority, the City Council, as a matter of legislative policy, has directed the DOT to prioritize the installation of protected bike lanes and pedestrian safety features on the City's streets. This policy is evident in the City Council's directive setting a benchmark for the DOT - as part of its five-year master plan for the use of streets, sidewalks and pedestrian spaces due by December 1, 2021 - of installing 250 miles of protected bike lanes (Administrative Code of City of NY § 19-199.1 [b] [1], [c] [2] [iii]; *see also People v Torres*, 37 NY3d 256, 269 [2021] [finding that enactment of the Right of Way Law, another aspect of the City's vision zero action plan, was a valid exercise of the police power delegated to it by the State]; *Coquis Sales Appliances LLC v DeBlasio*, 2019 NY Slip Op 33119[U], \*5-6 [Sup Ct, Bronx County 2019]). This emphasis on the installation of protected bike lanes is also demonstrated by the inclusion of protected bike lanes, as among the safety enhancing features that must be addressed in a mandatory street design checklist, for all major transportation projects (Administrative Code § 19-182.2 [b], [c]).

Given the DOT's broad authority over the City's streets and the City Council's policy directive mandating the installation of protected bike lanes, the DOT's expertise regarding determinations relating to City streets must be presumed and this court must give particular deference to a DOT determination involving the installation of a bike lane as part of a street project (*see Matter of Chenango Forks Cent. Sch. Dist. v New York State Pub. Empl. Relations Bd.*, 21 NY3d 255, 265 [2013]; *C.F. v New York City Dept. of Health & Mental Hygiene*, 191 AD3d 52, 69 [2d Dept 2020]; *Matter of New York State Div. of Human Rights v Stennett*, 98 AD3d 512, 513 [2d Dept 2012]; *see also Matter of Saratoga*

*Economic Dev. Corp. v State of N.Y. Auths. Budget Off.*, 222 AD3d 1072, 1075 [3d Dept 2023], *lv denied* 41 NY3d 910 [2024]; *Matter of Malone v City of New York*, 192 AD3d 510, 510-511 [1st Dept 2021]).

Because the DOT did not reach its determination through an agency hearing, it was proper for the agency to submit the affirmation of Chris Brunson (NYSCEF Doc. No. 38), the DOT's Director of Safety Projects and Programs, to explain the information before the agency and the rationale underlying its determination (*see Matter of Rysiejko v City of New York*, 232 AD3d 432, 433 [1st Dept 2024]; *Matter of Marsteller v City of New York*, 217 AD3d 543, 544 [1st Dept 2023], *lv denied & lv dismissed* 41 NY3d 960 [2024]). In his affirmation, Brunson asserted that the primary motivation for the Project on Court Street was the disproportionately high number of serious injuries per square mile within the 1.3 mile Corridor (Brunson aff at ¶¶ 12-13). In its review of the prior layout, the DOT observed frequent double parking, which was a factor in causing the high incidents of sideswipe crashes resulting from vehicles swerving between lanes to avoid the double-parked vehicles (Brunson aff at ¶¶ 13, 15). Brunson asserted that DOT's observance of the frequent double parking, which effectively reduced the number of travel lanes to a single lane, also suggested that there was excess capacity on the roadway and that the number of travel lanes could be reduced to a single lane in conjunction with updated curb regulations to provide access for delivery vehicles (Brunson aff at ¶ 17). The decision to install a protected bicycle lane was informed by the high volume of cyclists using Court Street despite the absence of an existing bike lane, the lack of a nearby protected southbound route for cyclists traveling from Downtown Brooklyn to Cobble Hill, Carroll Gardens, and

Red Hook, and citywide data demonstrating that protected bicycle lanes improve safety for cyclists, pedestrians, and motorists (Brunson aff at ¶¶ 9, 18-20, 22).

In addition to outlining the DOT's rationale for the street design changes for the Project, Brunson described the DOT's community outreach efforts that included surveys of persons and businesses in the neighborhood (Brunson aff at ¶¶ 23-33), the notification of stakeholders, including the New York City Fire Department (NYFD), the New York City Police Department (NYPD), some local community groups, and elected officials for the affected political subdivisions (Brunson aff at ¶¶ 34-39, 42), and presentations to Community Board 2 and Community Board 6 (Brunson aff at ¶¶ 40-42). The court notes that the rationale for the Project outlined by Brunson in his affirmation is essentially the same as the rationale that was presented by the DOT to the Community Boards (NYSCEF Doc Nos. 39-40).

In claiming that the DOT's determination to proceed with the Project did not have a rational basis, petitioner asserts that the accident data relied upon by the DOT was misleading as it provided no context for the 11 "severe" injuries. In this regard, petitioner alleges that of the two fatalities, one of the accidents actually occurred on Atlantic Avenue and the other occurred on Hamilton Avenue, both of which are outside the Corridor at issue. Petitioner, however, has likewise failed to provide context by providing accident statistics for other like roads or corridors.

Even assuming that the DOT has overstated the safety issues associated with the prior traffic design of the Court Street Corridor, petitioner has not meaningfully addressed the DOT's assertion that the installed pedestrian friendly traffic calming features and

protected bike lane will enhance the safety of both pedestrians and cyclists. Petitioner's primary evidence regarding the safety of protected bike lanes is a journal article in which the authors analyze studies of accidents across various types of bike lanes (Jessica B. Cicchino, et al., *Not All Protected Bike Lanes are the Same: Infrastructure and Risk of Cyclist Collisions and Falls Leading to Emergency Department Visits in Three U.S. Cities*, *Accident Analysis & Prevention* [issue 141], [2020], NYSCEF Doc No. 11). This article, however, does not demonstrate that protected bike lanes are less safe, as the author's primary conclusion appears to be that different forms of bike lanes lead to different kinds of dangers or accidents, not that protected bike lanes are necessarily more or less dangerous than unprotected bike lanes (*id.* at § 4.4). Indeed, in noting the limitations on their findings, the authors emphasized that the available studies did not show the before and after impact of installing various forms of bike lanes (*id.* at § 4.3). The authors, in their conclusion, also note that protected bike lanes increase ridership, which is, in and of itself, one of the policy goals underlying the installation of bike lanes in the City (*id.* at § 4.4).

Petitioner also provides an affirmation of Eric Beaton, a DOT Deputy Commissioner for Transportation Planning and Management, that was previously submitted in another matter involving a challenge to the DOT's alteration of a portion of the protected bike lane on Bedford Avenue in Brooklyn (NY St Cts Elec Filing [NYSCEF] Doc No. 39, affirmation in *Matter of R.H. v City of New York*, Sup Ct, Kings County, index No. 519977/25; NYSCEF Doc No. 14 [in this proceeding/action]). Contrary to petitioner's assertions, however, Beaton's affirmation does not demonstrate an issue with the protected bike lane at issue here. Namely, the fact that Beaton acknowledged that the DOT altered a

three block portion of a 20 block protected bike lane on Bedford Avenue based on the DOT's observation of issues with school bus drop-offs, the DOT's receipt of reports of multiple collisions with cyclists and pedestrians, and the DOT's receipt of community complaints (Beaton aff at ¶¶ 7-11), fails to show that the protected Bike Lane installed on Court Street will present the same issues.

Petitioner further contends that the use of e-bikes and mopeds in the protected bike lane will create safety concerns. However, petitioner has failed to present any evidence demonstrating that the alleged risks differ in any material way from those associated with their use on the street under the prior system.

Aside from these asserted safety issues, petitioner has not addressed the DOT's observation that the Corridor is already widely used by cyclists despite the absence of a bike lane or demonstrated that there was an alternative bike route that could have been used to avoid the impact of the installation of a protected bike lane on Court Street. Petitioner's contention that an unprotected bike lane would have been a preferable alternative fails to address Petitioner's primary objection to the plan—the elimination of a travel lane. Given the width of the street, implementation of an unprotected bike lane would likewise have required the removal of a travel lane (or, alternatively, the elimination of a parking lane) (Brunson, aff. at ¶ 60). In addition, given the high incidence of double parking on Court Street under the prior layout, it would appear that, in the absence of some barrier between the travel lane and the bike lane, vehicles would simply double park in the bike lane or in the travel lane and force either bikes to swerve into the travel lane, or motor vehicles to swerve into the bike lane, to avoid the double parked vehicles. As such, an unprotected

bike lane would simply perpetuate a safety issue presented by the prior layout (Brunson, aff. at ¶¶ 60-61).

Petitioner also asserts, through affidavits of business owners located on Court Street, that the street redesign has already adversely impacted Court Street businesses by reducing sales and/or impeding deliveries due to limitations on available loading areas (NYSCEF Doc No. 16, Mazzone aff. at ¶ 5; NYSCEF Doc No. 17, Cross aff. at ¶¶ 3-5; NYSCEF Doc. No. 68, Calabrese aff. at ¶¶ 4-5; NYSCEF Doc No. 75, Shelsky aff. at ¶ 3). Although the Project may have impacted the ability of businesses to receive deliveries, the Project design, as noted by Brunson, eliminated some metered parking spaces to create additional loading zones for commercial vehicles,<sup>3</sup> demonstrating that the DOT gave due consideration to the needs of local businesses in planning the Project (Brunson aff. at ¶¶ 49, 63-66).

Petitioner further contends, through affidavits from business owners and neighborhood residents, that traffic congestion resulting from the reduction to a single travel lane and the narrowing of turning areas at intersections has impeded the movement of fire trucks and other emergency vehicles (NYSCEF Doc No. 16, Mazzone Aff. at ¶ 6; NYSCEF Doc No. 18, Pepitone Aff. at ¶¶ 2-6; NYSCEF Doc No. 19, Sallusito Aff. at ¶¶ 3-4; NYSCEF Doc. 70, Polanski Aff. at ¶ 4). These anecdotal accounts of alleged delays attributable to the Project's traffic design, however, do not demonstrate that the Project has had a significant impact on emergency response times. Moreover, as noted by Brunson, the

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<sup>3</sup> Brunson asserts that the loading zones are large enough to accommodate the size of trucks that are allowed to travel on City streets without special permits (Brunson aff. at ¶ 64).

Project incorporates design features intended to accommodate emergency vehicles, including bus lanes and “channelized” no-parking areas—delineated by dashed markings or flexible lane delineators—that vehicles may enter to clear a path for emergency responders. (Brunson aff at ¶ 57).

Relatedly, petitioner asserts that the DOT has failed to provide certifications evidencing that it consulted with the police department, fire department, the department of small business services and the mayor’s office for people with disabilities prior to the implementation of a major transportation project such as the instant Project (Administrative Code § 19-101.2 [a], [c], [j]). Although petitioner, which includes as members businesses fronting Court Street within the Corridor, may have standing to challenge the Project design because it impacts the operation of its member businesses (*see Matter of Cambridge Owners Corp. v New York City Dept. of Transp.*, 2013 NY Slip Op 32701[U], \*5-6 [Sup Ct, New York County 2013], *affd.* 118 AD3d 634 [1st Dept 2014]; *see also Matter of Scarsdale Comm. for Fair Assessments v Albanese*, 202 AD3d 966, 967-968 [2d Dept 2022]), petitioner does not have standing to challenge a failure to provide notices to other City departments under section 19-101.2 (j).<sup>4</sup> Here, the notice provisions of Section 19-101.2 (j) are plainly intended to afford the departments entitled to notice an opportunity to raise and address concerns regarding the impact of a proposed street design on their operations and interests. Petitioner has identified no basis for standing to assert the rights of those departments or of the elected officials entitled to certifications of notice, as

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<sup>4</sup> Respondents only challenge petitioner’s standing to challenge the DOT’s provision of notice required by Administrative Code § 19-101.2 (j).

petitioner has failed to demonstrate any cognizable injury arising from the alleged lack of notice that is distinct from that suffered by the public at large (*see Batchie v Travelers Ins. Co.*, 130 AD2d 536, 537 [2d Dept 1987]; *see also Matter of Transactive Corp. v New York State Dept. of Social Servs.*, 92 NY2d 579, 587 [1998]; *Matter of East Thirteenth St. Community Assn. v New York State Urban Dev. Corp.*, 84 NY2d 287, 295-296 [1994]; *Society of Plastics Indus. v County of Suffolk*, 77 NY2d 761, 774 [1991]).<sup>5</sup>

This court will not address petitioner's assertion that the DOT failed to undertake an environmental review in accordance with the State Environmental Quality Review Act (SEQRA) (ECL 8-0101 *et seq.*) and the City Environmental Quality Review (CEQR) rules (43 RCNY 6-01 *et seq.* and 62 RCNY 5-01 *et seq.*) because petitioner improperly raised this argument for the first time in its reply papers (*see Matter of Town of Pleasant Val. v Town of Poughkeepsie Planning Bd.*, 289 AD2d 583, 583-584 [2d Dept 2001], *lv denied* 98 NY2d 602 [2002]).

In sum, the DOT has demonstrated that it had a rational basis for installing the bicycle lane and other features along the Court Street Corridor at issue (*see Matter of Cambridge Owners Corp. v New York City Dept. of Transp.*, 2013 NY Slip Op 32701[U], \*5-6 [Sup Ct, New York County 2013], *affd.* 118 AD3d 634 [1st Dept 2014]; *Coquis Sales Appliances LLC v DeBlasio*, 2019 NY Slip Op 33119[U], \*7-11 [Sup Ct, Bronx County 2019]; *Matter of Fraydun Realty Co. v New York City Dept. of Transp.*, 2017 NY Slip Op

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<sup>5</sup> Readily distinguishable is a case like *Matter of Patrolmen's Benevolent Assn. of City of N.Y. v De Blasio* (171 AD3d 636 [1st Dept 2019], *lv denied* 35 NY3d 979 [2020]), where the court held that the petitioner association could seek injunctive relief on the behalf of its member police officers because they were the intended beneficiaries of the privacy right created by the statute at issue (*id.* at 636-637).

31070[U], \*7-9 [Sup Ct, New York County 2017]). As petitioner has failed to demonstrate the existence of factual issues in this respect, the first cause of action in the petition is denied and dismissed (*see Matter of Port of N.Y. Auth. [62 Cortlandt St. Realty Co.]*, 18 NY2d 250, 255 [1966], *cert denied sub nom* 385 US 1006 [1967]; *Matter of Reyes v Suffolk County Traffic & Parking Violations Agency*, 221 AD3d 824, 826 [2d Dept 2023]; *Montepagani v New York City Dept. of Health, Div. of Vital Records*, 85 AD3d 474, 474-475 [1st Dept 2011]; *Matter of 1300 Franklin Ave. Members, LLC v Board of Trustees of Inc. Vil. of Garden City*, 62 AD3d 1004, 1006-1007 [2d Dept 2009]; CPLR 409 [b]).

In reaching this conclusion, the Court does not seek to diminish petitioner's concerns regarding the effect of DOT's actions on the ability of its member businesses and other Court Street businesses to receive deliveries, or the potential impact of eliminating a travel lane on the movement of fire trucks, police vehicles, ambulances, and other emergency responders. As discussed above, however, these concerns do not establish that DOT lacked a rational basis for its determination, and the court therefore lacks authority to disturb that determination. Under these circumstances, petitioner's recourse is to petition the City's elected and appointed officials because questions relating to the best use of city streets implicate policy concerns that are beyond the authority of courts to address and that are best left to those elected and appointed officials (*see Government Employees Ins. Co.*, 2025 NY Slip Op 06527, \*4-5; *Matter of Lorie C.*, 49 NY2d 161, 171 [1980]).<sup>6</sup>

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<sup>6</sup> As expressed in another context, "courts do not normally have overview of the lawful acts of appointive and elective officials involving questions of judgment, discretion, allocation of resources and priorities" (*see Matter of Lorie C.*, 49 NY2d at 171).

### *Equal Protection*

In the second cause of action, petitioner asserts violations of the equal protection clause of the Fifth and Fourteenth Amendments to the United States Constitution, as well as article 1, § 11 of the New York State Constitution. Petitioner contends that the plan establishing the protected bike lane impermissibly favors the interest of cyclists over those other members of the Court Street community and lacks any rational basis to support the DOT's decision (petition/complaint ¶¶ 98-112). This claim fails, however, to state an equal protection claim under either the state constitution or federal constitution.<sup>7</sup> Since the classification favoring cyclists does not involve any fundamental rights or proceed along suspect lines, it is accorded a strong presumption of validity and “must be upheld against equal protection challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification” (*Heller v Doe*, 509 US 312, 320 [1993]).<sup>8</sup> Petitioner, in the petition/complaint, concedes that the stated purpose of the protected bike lane is to enhance safety for cyclists as part of the City's mandate to create 50 miles of protected bike lanes annually (petition/complaint ¶¶ 102-103). The promotion of cyclist safety clearly constitutes a rational basis for the DOTs actions, even in the absence of

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<sup>7</sup> The Fifth Amendment's due process clause and the equal protection component thereof only applies to the actions of the federal government and thus does not apply to the actions of the respondent municipal actors (*see Lee v City of Los Angeles*, 250 F3d 668, 687 [9th Cir 2001]; *see also Palmer v Schuette*, 768 Fed Appx 422, 426-427 [6th Cir 2019]). The court will thus address the claim as one under the 14th Amendment to the US Constitution and under New York State Constitution, article 1, § 11. Since the New York's equal protection guarantees are coextensive with the rights protected under the federal equal protection clause, the analysis is the same for both provisions (*see IntegratedNYC, Inc. v State of New York*, --- NY3d ---, ---, 2025 NY Slip Op 05870, \*6 [2025]; *Myers v Schneiderman*, 30 NY3d 1, 13 [2017]).

<sup>8</sup> The court assumes that the classification identified by petitioner actually involves a cognizable differential treatment. If a law or administrative action applies to all equally, it does not violate equal protection safeguards (*see Myers v Schneiderman*, 30 NY3d 1, 13 [2017]).

supporting evidence or empirical data (*see Heller*, 509 US at 320), and regardless of whether alternative or more efficient means of achieving that objective may exist (*see Spina v Department of Homeland Sec.*, 470 F3d 116, 131 [2d Cir 2006]; *County of Rockland v Triborough Bridge & Tunnel Auth.*, 791 F Supp 3d 433, 450-452 [SDNY 2025]; *see also Dua v New York City Dept. of Parks & Recreation*, 176 AD3d 91, 103-104 [1st Dept 2019]; *see also Reyes v North Texas Tollway Auth.*, 861 F3d 558, 563-566 [5th Cir 2017]).

### ***Intentional Interference with Economic Advantage***

Timely service of a notice of claim is a condition precedent to maintaining a tort action for damages against the City and City officials acting in the scope of their employment (*see Farah v City of New York*, 241 AD3d 1435, 1438 [2d Dept 2025]; *Dibble v Schroedel*, 240 AD3d 570, 572-573 [2d Dept 2025]). Petitioner's failure to allege, or otherwise demonstrate, that it complied with this requirement warrants dismissal of petitioner's third cause of action for intentional interference with economic advantage pursuant to CPLR 3211 (a) (7) (*see Farah*, 241 AD3d at 1438; *Dibble*, 240 AD3d at 572-573). In addition, although petitioner has associational standing to pursue its CPLR article 78 proceeding seeking to annul or set aside the Project, it lacks standing to seek such relief on behalf of its members to the extent the claims involve monetary damages, as the participation of individual members would be required (*see Matter of Scarsdale Comm. for Fair Assessments*, 202 AD3d at 968).

Even if petitioner could overcome the notice of claim and standing issues, it has also failed to plead the kind of wrongful conduct required to establish a cause of action for

tortious interference with prospective economic advantage. In this regard, to establish liability to recover damages for tortious interference with contractual relations, petitioner must demonstrate that the City respondents engaged in wrongful conduct which interfered with a contractual relationship between petitioner and a third party. “As a general rule, such wrongful conduct must amount to a crime or an independent tort, and may consist of ‘physical violence, fraud or misrepresentation, civil suits and criminal prosecutions’” (*see Smith v Meridian Tech., Inc.*, 86 AD3d 557, 560 [2d Dept 2011], quoting *Guard-Life Corp. v Parker Hardware Mfg. Corp.*, 50 NY2d 183, 191 [1980]; *see also Tsatskin v Kodonsky*, 189 AD3d 1296, 1298 [2d Dept 2020]). Here, petitioner’s allegations involving interference are based on the removal of one of the travel lanes and the installation of the bike lane and traffic calming measures, which petitioner asserts impeded deliveries and customer access to its member businesses. Such measures, which are not alleged to have been taken for the sole purpose of harming petitioner’s members, do not constitute the type of wrongful conduct necessary to sustain such a claim (*see Tsatskin*, 189 AD3d at 1298; *106 N. Broadway, LLC v Lawrence*, 189 AD3d 733, 740-741 [2d Dept 2020]; *Mehrhov v Monroe-Woodburty Cent. Sch. Dist.*, 168 AD3d 713, 714-715 [2d Dept 2019]; *Law Offs. of Ira H. Leibowitz v Landmark Ventures, Inc.*, 131 AD3d 583, 586 [2d Dept 2015]).

Accordingly, respondents are entitled to dismissal of petitioner’s third cause of action for tortious interference with prospective economic advantage.

### ***Declaratory Judgment***

Given that a CPLR article 78 proceeding provides an adequate remedy to challenge respondents’ administrative determination at issue here, petitioner’s fourth cause of action

for a declaratory judgment pursuant to CPLR 3001 is dismissed as duplicative and unnecessary (*see Matter of Spence v Office of the N.Y. State Comptroller*, 240 AD3d 1067, 1073 [3d Dept 2025]; *see also Greystone Mgt. Corp. v Conciliation & Appeals Bd. of City of N.Y.*, 62 NY2d 763, 765 [1984]; *Matter of Level 3 Communications, LLC v Chautauqua County*, 148 AD3d 1702, 1703 [4th Dept 2017], *lv denied* 30 NY3d 913 [2018]).

### ***Injunctive Relief***

Since all the substantive causes of action have been dismissed, petitioner's fifth cause of action for an injunction must likewise be dismissed, as an injunction is a remedy and not an independent cause of action (*see Klein v Catholic Health Sys. of Long Is., Inc.*, 231 AD3d 797, 801 [2d Dept 2024]; *Carlyle, LLC v Quik Park 1633 Garage LLC*, 160 AD3d 476, 477-478 [1st Dept 2018]; *Weinreb v 37 Apts. Corp.*, 97 AD3d 54, 58-59 [1st Dept 2012]).

Finally, given that the petition/complaint has been denied and dismissed on the merits, petitioner's motion for a preliminary injunction is denied as moot (*see Stefanik v Hochul*, 229 AD3d 79, 82 n3 [3d Dept 2024], *affirmed* 43 NY3d 49 [2024]).

This constitutes the decision, order and judgment of the court.

E N T E R,

J. S. C.

Hon. Inga M. O'Neale  
Justice, Supreme Court

JAN 12 2026

2026 JAN 14 A 10:00

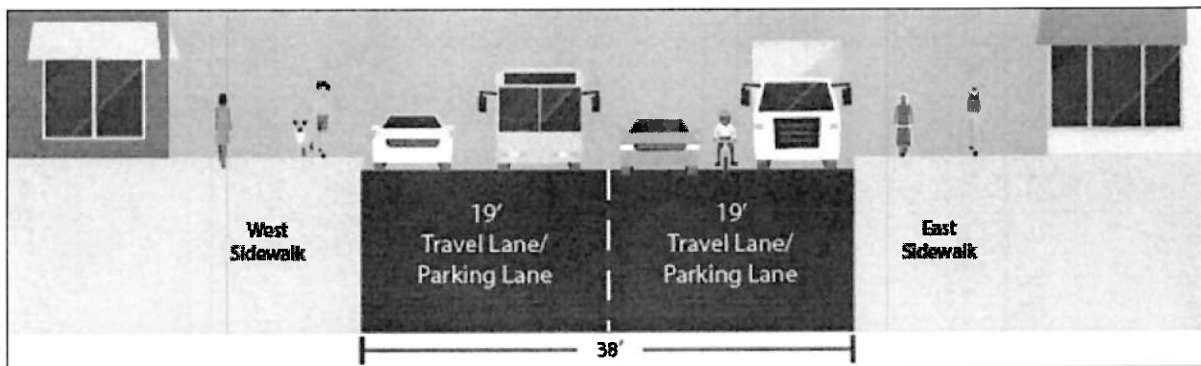
KINGS COUNTY CLERK

Appendix 1

DOT's comparison of the former and now current traffic design of Court Street

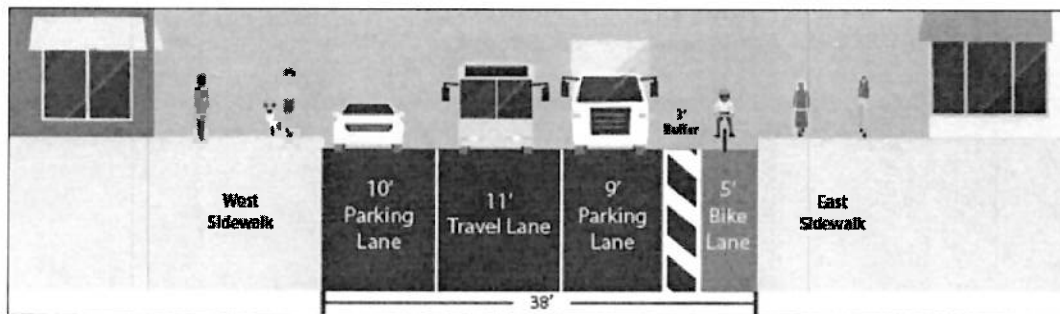
## Existing Conditions

- 38' wide street
- Parking on both sides of the street
- No dedicated bike infrastructure



# Proposal

- Remove a travel lane on Court St
- Add a curbside Parking Protected Bike Lane on the east curb of Court St
- Add painted pedestrian islands and curb extensions at intersections along the corridor
- Install turn calming and improve visibility between drivers, cyclists, and pedestrians
- Install additional commercial loading zones along the corridor



## Appendix 2

# Proposed Conditions – Typical Block

