

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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COUNCIL OF CHELSEA BLOCK ASSOCIATIONS et al.,

Petitioners,

For a Judgement Pursuant to Article 78 of the  
Civil Practice Law and Rules

Index No.: 0156153/2019

-against-

THE CITY OF NEW YORK et al,

Respondents  
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**MEMORANDUM IN SUPPORT OF ALLOWING THE RIDERS ALLIANCE AND  
TRANSPORTATION ALTERNATIVES TO APPEAR AS FRIENDS OF THE COURT**

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## INTEREST OF PROPOSED FRIENDS OF THE COURT

Movants, advocates for better public transit service and reducing traffic fatalities and injuries, organize New Yorkers to fight for reliable, affordable, world-class subway and bus service, and for safe streets, in order to build a more just and sustainable New York City. The Riders Alliance organizes transit riders to develop grassroots power across racial, economic and neighborhood lines. Transportation Alternatives advocates and organizes for better walking, bicycling and public transit for all New Yorkers. Together, movants hold our elected officials accountable, engage the public, conduct original research, and take direct action to guarantee that riders have a powerful voice in the decisions that affect us.

In the instant litigation, petitioners represent certain Chelsea and Greenwich Village residents and respondents the government of the City of New York. The Transit/Truck Priority Pilot at issue was not proposed for the benefit of the government; it was adopted for transit riders, to prioritize tens of thousands of New York City's two million daily bus riders on city streets after a century of being left behind in favor of cars and trucks. The interests of those riders counting on innovations like the Pilot at issue have been unrepresented before this court. Amid a transit crisis and rising fatalities, and efforts to build a fairer, safer and more just city for those who need it, the court should now consider riders' interests as New Yorkers reliant on public transit. The court should consider safety benefits of protected bike lanes for all New Yorkers in the course and outcome of litigation over a plan with the potential to transform access and equity in the city.

Fourteenth Street bus riders are stuck in miserable crosstown traffic each day that the city is restrained from instituting the Pilot. **This brief puts the loss to riders in context by identifying actual lost time and opportunities to riders, and by highlighting the increased risk of physical harm to New Yorkers for every day the injunction is in effect.** It suggests that consideration given to speculative potential harm that the Chelsea and Village plaintiffs may incur should the Pilot take effect must be weighed against the denial of better transit service to riders that enjoining it implies and the

proven increased risk of harm from enjoinder. Where petitioners allege irreparable harm sufficient to sustain a temporary restraining order, riders too face irreparable harm from continued slow and unreliable transit service and consequent lost family time, anxiety and frustration; and all New Yorkers face a higher risk of the ultimate irreparable harm, namely the loss of life, when the City is prevented from installing the optimal safety-based measures on 12th, 13th and 14th street. **Accordingly, this brief details how much riders are losing while the busway is delayed and the risk of harm from curtailing safety measures along and adjacent to 14th street.**

## ARGUMENT

Riders lose time when transit service is denied priority on busy city streets. In the one month since the instant Transit/Truck Priority Pilot was restrained by this court, 14th Street rush hour bus commuters have lost over 8,000 hours to traffic congestion that would have been mitigated by the Pilot. Riders will never regain that time lost in traffic, valuable time that could have been spent at work, with family, or engaged in civic life. Riders have been irreparably harmed by the delay in Pilot implementation. Additionally, New Yorkers, including local Chelsea and Greenwich Village residents, are at heightened risk of physical and irreparable harm every day the City is prevented from implementing safety improvements. Movants urge this court to lift the temporary restraining order immediately and permit Pilot implementation to proceed.

### I. BACKGROUND

The M14 bus across Manhattan's crowded 14th Street ranks among the heaviest ridership bus routes in New York City -- 9th among over 200 local bus routes.<sup>1</sup> M14 bus ridership is however falling precipitously, by 6.2% in the past year and 7.1% during the year prior.<sup>2</sup> M14 ridership is declining against a backdrop of miserably slow and unreliable transit service.<sup>3</sup> In fact, M14 service is so bad it was recently awarded the NYPIRG Straphangers Campaign's 2019 Pokey Award, given to the city's slowest bus.<sup>4</sup>

Despite this, last year, an average of 26,637 long-suffering New Yorkers still rode the M14 each day.<sup>5</sup> To address persistent service problems on the M14, and speed the commutes of tens of thousands of daily bus riders, City officials proposed the Transit/Truck Priority Pilot, which would restrict car traffic

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<sup>1</sup> [http://web.mta.info/nyct/facts/ridership/ridership\\_bus.htm](http://web.mta.info/nyct/facts/ridership/ridership_bus.htm).

<sup>2</sup> *Id.*

<sup>3</sup> <http://busturnaround.nyc/routes/m14a/>.

<sup>4</sup>

[https://www.straphangers.org/reports/2019/News%20Release\\_%202019%20Pokey%20Release%20final%20\(3\).pdf](https://www.straphangers.org/reports/2019/News%20Release_%202019%20Pokey%20Release%20final%20(3).pdf).

<sup>5</sup> [http://web.mta.info/nyct/facts/ridership/ridership\\_bus.htm](http://web.mta.info/nyct/facts/ridership/ridership_bus.htm).

on 14th Street and increase crosstown bus speeds by between two and nine minutes per rush hour trip.<sup>6</sup>

The Pilot was to begin on July 1 but was delayed by the instant litigation.

## II. THIS LITIGATION HAS COST M14 RUSH HOUR RIDERS 8,654 HOURS OF LOST TIME

Movants calculate that the Transit/Truck Priority Pilot, had it been implemented as planned on July 1, would have saved rush hour M14 bus commuters over 8,000 hours in its first five weeks of operation. The court-imposed delay has cost bus riders approximately 8,654 hours of lost time:

- a) Per industry standards, movants assume 5,000 of 26,637 daily M14 trips are rush hour trips.
- b) Movants divide 5,000 by 4 to account for morning and evening, eastbound and westbound trips, arriving at 1,250 trips each morning and evening, eastbound and westbound.
- c) NYC DOT projected per trip time savings of 2.4 minutes in the morning eastbound, 2.1 minutes morning westbound, 8.9 minutes evening eastbound, and 3.9 minutes evening westbound.
- d) Each working day, 1,250 people lose DOT's projected time savings, multiplied out:
  - i)  $1,250 * 2.4 = 3000$  minutes on the morning eastbound rush hour commute
  - ii)  $1,250 * 2.1 = 2625$  minutes on the morning westbound rush hour commute
  - iii)  $1,250 * 8.9 = 11,125$  minutes on the evening eastbound rush hour commute
  - iv)  $1,250 * 3.9 = 4,875$  minutes on the evening westbound rush hour commute
- e) Total daily rush hour time lost =  $3000 + 2625 + 11,125 + 4,875 = 21,635$  minutes
- f)  $21,635 \text{ minutes} * 24 \text{ working days since July 1} = 519,240 \text{ minutes} / 60 = 8,654 \text{ hours' lost time}$

## III. THE LITIGATION-IMPOSED DELAY IS GROSSLY UNFAIR TO TRANSIT RIDERS

There is a striking inequality between the New York bus riders injured by this litigation and the Chelsea and Village plaintiffs. Census data reveal that employed bus riders earn an annual average of

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<sup>6</sup> Affidavit of NYC DOT Deputy Commissioner Eric Beaton at 17.

\$28,455 while per capita income in Chelsea is \$105,662 and in the West Village \$114,767. Simply, by bringing and pursuing this case, rich residents are actually wasting low-income workers' and residents' time. Not only are bus riders suffering irreparable harm each day the order remains in place, but they are particularly ill-suited to bear that burden given the myriad difficulties low-income New Yorkers must face.

#### IV. REMOVING OR RESTRAINING 12TH/13TH STREET PROTECTED BIKE LANES WILL ENDANGER NEW YORKERS, INCLUDING CYCLISTS

As of August 4, 2019, at least 18 people have been killed this year riding their bicycles in New York City -- all after being struck by a car or truck.<sup>7</sup> By comparison, 10 cyclists died similarly in all of 2018.<sup>8</sup> In 2018 an additional 115 pedestrians and 78 motorists were killed and at least 60,800 people suffered injuries in traffic crashes in the city -- an average of 166 people every day. This is arguably an epidemic, with more than 6,000 people killed in traffic crashes on New York City streets since 2001, nearly every single such fatality caused by a car or truck. Despite this year's increase in cyclist fatalities, the City of New York's Vision Zero program to improve road safety, has resulted in an overall decrease in traffic fatalities every year from 2014 through 2018 which is attributed to various traffic-calming efforts that include narrowing motor vehicle road travel lanes, vehicle turn restrictions and implementing bike lanes. In order to address the historic epidemic of traffic violence and this year's disturbing rise in overall cyclist, pedestrian and motorist fatalities, it is critical that those efforts not be curtailed, and in particular that the 12th and 13th Street protected bike lanes remain and be improved upon if necessary to improve safety.

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<sup>7</sup> New York Times - <https://www.nytimes.com/2019/08/02/nyregion/weve-blamed-traffic-deaths-on-bicyclists-since-1880-what-about-drivers.html>

<sup>8</sup> New York City Vision Zero View; NYPD TrafficStat

Protected bike lanes, which physically separate cyclists from vehicular traffic and create predictable bike traffic patterns for pedestrians, reduce injuries and fatalities for all road users.<sup>9</sup> In New York City protected bike lanes have been shown to reduce injuries for all road users by more than 21% on average.<sup>10</sup> Nearly every cyclist killed, year after year, is struck where no protected bike lane exists.

Additionally, the sufficient width of a bike lane, as determined by the New York City Department of Transportation, is important for at least two safety-based reasons: First, bike lanes serve to narrow the motor vehicle travel lanes on the streets where they exist, thereby achieving traffic speed-calming effects by naturally causing car and truck drivers to slow down, thus reducing the likelihood of a crash and, if a crash does occur, the level of harm to pedestrians and other road users.<sup>11</sup> Second, parking-protected and buffered bike lanes can eliminate the risk of a cyclist being pushed into the path of multi-ton cars and trucks and struck if such cyclist is “doored”, i.e. a car-door that is opened into the path of a riding cyclist, which has caused the death of at least two cyclists in 2019. It is critical that each neighborhood in New York City provides safe passage for all road users, including cyclists. Nothing is more important than protecting the lives of all New Yorkers -- it is the most important function of government.

The potential absence of protected bike lanes on 12th and 13th streets in Manhattan, and any delay in improving those bike lanes further, would make cycling, walking and driving more dangerous for local residents and others alike.

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<sup>9</sup> Cycling lanes reduce fatalities for all road users, study shows, Science Daily, <https://www.sciencedaily.com/releases/2019/05/190529113036.htm>

<sup>10</sup> New York City Department of Transportation

<sup>11</sup> National Association of City Transportation Officials, <https://nacto.org/publication/urban-street-design-guide/street-design-elements/lane-width/>

V. AS BIKE SHARE USE GROWS IT MUST BE ACCOMPANIED BY SAFE BIKING INFRASTRUCTURE

As Citi Bike and other bike share options expand throughout New York City in 2019 and beyond, it is critical that connected protected bike lanes accompany that expansion in order to lower the risk of injury and death. There is no substitute for the protection offered by protected bike lanes to help prevent injury and loss of life. Such expansion of protected bike lanes must be implemented with minimal restrictions for the City, including the absolute minimal environmental review requirements.

VI. PROVIDING RELIABLE AND EFFICIENT BUS SERVICE IN CENTRAL MANHATTAN IS NECESSARY TO ADDRESS TRAFFIC CONGESTION AND REDUCE VEHICLE MILES TRAVELLED

Traffic congestion in New York City is estimated to cost the New York City metro area \$100 billion over five years,<sup>12</sup> with significant costs to individual residents and commuters. Additionally, the number of cars on city streets and the vehicle miles those cars travel is directly associated with the number of traffic crashes, injuries and fatalities.<sup>13</sup> Accordingly, in order for the City of New York to provide the safest streets possible, it is critical that it be allowed to create alternatives to car travel in the form of bus transit and biking infrastructure that is efficient, reliable and safe in order to be attractive for New Yorkers to use.

Accordingly, the order should be lifted immediately, and the Pilot and protected bike lanes in question be permitted to proceed and remain.

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<sup>12</sup> Partnership for the City of New York, <http://pfnyc.org/wp-content/uploads/2018/01/2018-01-Congestion-Pricing.pdf>

<sup>13</sup> U.S. Department of Transportation, <https://www.transportation.gov/mission/health/vmt-capita>