Morgan Lewis

MOBILITY IN A POST-PANDEMIC AGE

May 19, 2021

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Presenters

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Morgan Lewis

Morgan Lewis Automotive Hour Webinar Series

Series of automotive industry focused webinars led by members of the Morgan Lewis global automotive team. The 11-part 2021 program is designed to provide a comprehensive overview on a variety of topics related to clients in the automotive industry. Upcoming sessions:

JUNE 2 | Trademark and Copyright Considerations in the Automotive and Mobility Space

JULY 14 | White Collar and Regulatory Developments Affecting the Automotive and Mobility Industry

AUGUST 11 | Power and Opportunity: EVs, Hydrogen and Other Vehicle Power

SEPTEMBER 15 | SPACs and Other Vehicles for Investment in the Automotive and Mobility Sectors

NOVEMBER 10 | New Market Entry and the Anachronistic US Distribution System: What the Future Portends

DECEMBER 8 | The IP Anatomy of the Automotive Nervous System

Morgan Lewis and Global Technology

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Twitter: **@MLGlobalTech**

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Check back to our Technology May-rathon page frequently for updates and events covering the following timely topics:

21st Century Workplace	**Diversity, Environment, Social Justice**	**Medtech, Digital Health and Science**
Artificial Intelligence and Automation	**Fintech**	**Mobile Tech**
Cybersecurity, Privacy and Big Data	**Global Commerce**	**Regulating Tech**

Table of Contents

Micromobility

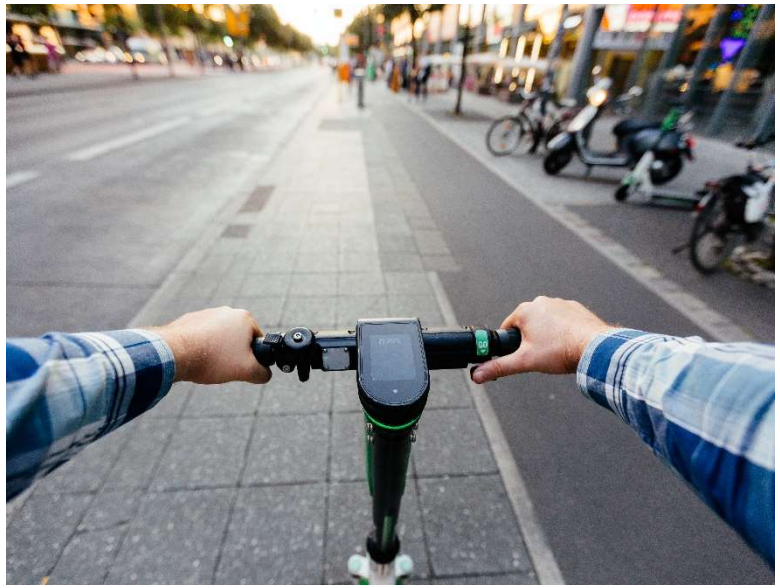
Morgan Lewis

Micromobility: Industry Background

- Micromobility vehicles are known as "intuitive mobility" solutions:
  - Small, lightweight personal transportation vehicles that operate at speeds of 15-20 mph
    - Bicycles
    - E-Bikes
    - E-Skateboards
    - Escooters*

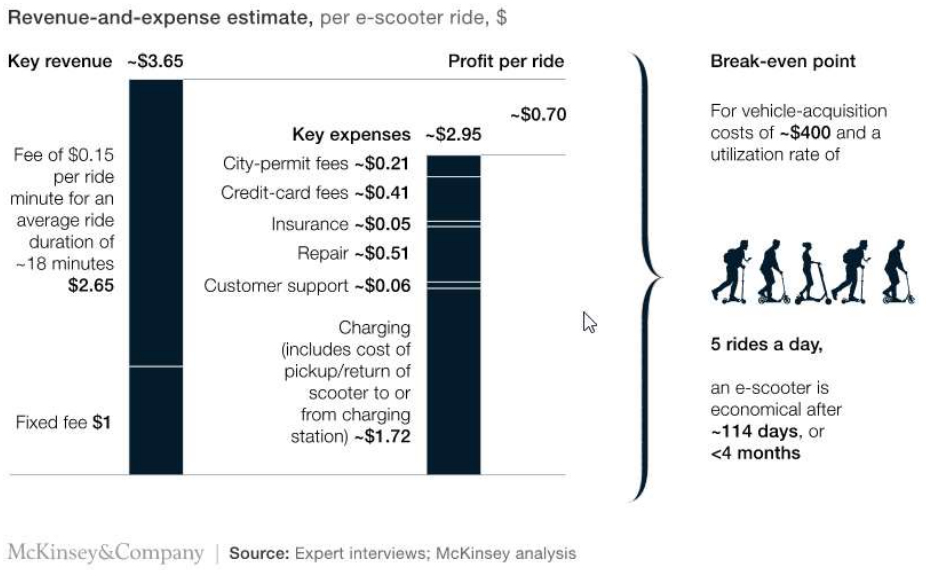
Micromobility: Industry Background

- Escooter Technical Specifications:
  - Average weight: 23.9 to 33 pounds
  - Lithium-Ion Battery Life: 3,000 to 10,000 total miles
    - 300 to 500 charge/discharge cycles
  - Entry-level escooters can travel 15.5 to 20 miles
  - Average charge time: 3-5 hours



Micromobility: Industry Background

- Escooters are economical to private owners after 4-5 months of use
  - Escooter price:
    - Entry-level: $300-$500 (USD)
    - Mid-level: $600-$900 (USD)
    - Premium: $1,000-$1,600 (USD)



Micromobility: Industry Background

- More than 30% of the world's population lives in urban cities with populations of more than 1 million people.
  - The United Nations' *World Urbanization Report* (2015) projects that more than 60% of the world's population will live in urban areas by 2050.
- In the United States, between 2012-2016:
  - 175 million lived in suburbs and small metropolitan areas*;
  - 100 million lived in urban cities;
  - 46 million lived in rural areas.

Micromobility: Industry Background

- In the United States, European Union, and China, approximately 60% of all miles traveled in private cars cover less than 5 miles
  - Approximately 20% of trips on public transportation cover the same distance

Micromobility: Industry Background

- Since 2015, micromobility stakeholders have invested more than $5.7 billion in personal mobility start-up companies.
  - Growth is two to three times faster than either car sharing or ride hailing over the same period of growth
- Several micromobility start-ups have amassed valuations that exceed $1 billion, which is more than ridesharing platforms over the same time period of its corporate lifecycles.
- Micromobility industry projected to be a $300 to $500 billion market by 2030.

Changing Legal Landscape of Escooters

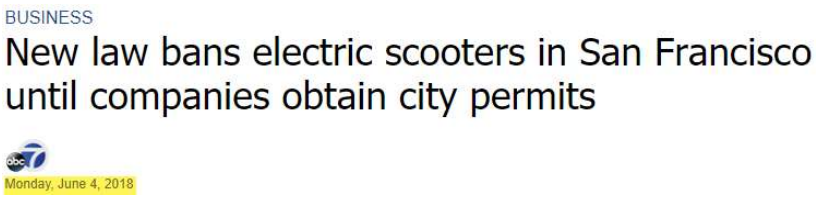
- **National Highway Traffic Safety Administration (NHTSA) Guidance on Micromobility**
  - NHTSA Interpretation 08-002289as (Jan. 16, 2009); 70 FR 34812
  - Criteria for determining whether a two- and three-wheeled micromobility vehicles are a "motor vehicle" subject to its jurisdiction:
    1. Whether the vehicle can exceed 20 mph (per ISO 7116) in the absence of a governor.
    2. Whether the physical features of the vehicle indicate it is an "on-road" or "off-road" vehicle, including whether the vehicle has a VIN, mirrors, turn signal lamps, side marker lamps, and stop lamps.

Changing Legal Landscape of Escooters

- **Consumer Product Safety Commission (CPSC) Guidance on Micromobility**
  - CPSC, *Safety Concerns Associated with Micromobility Products*, at 6 (Apr. 8, 2020)
    - CPSC has jurisdiction over consumer products, which include micromobility vehicles that NHTSA does not consider to be a "motor vehicle" per 15 U.S.C. 2052(a)(5)
      1. Scooters lacking seats that are operated in a stand-up mode;
      2. Scooters that are incapable of a top speed of **20 mph or greater**; and
      3. Electric bicycles with operable pedals, and an electric motor of 750 watts or less, whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is **less than 20 mph**.

Changing Legal Landscape of Escooters

- Standard Municipal and State Government Responses to Escooters:
  - Escooters appear in cities
  - Government bans escooters
  - Government receives public pushback about escooter ban
  - Government legalizes escooters and charges permit fees, etc.
  - Government issues permits to escooter companies to establish shared escooter platforms



BUSINESS

New law bans electric scooters in San Francisco until companies obtain city permits

Monday, June 4, 2018

SAN FRANCISCO

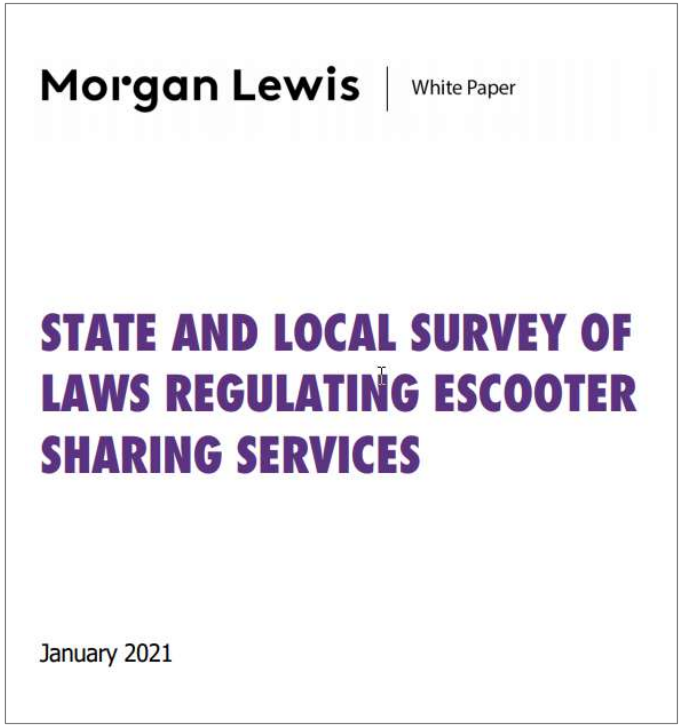
Electric Scooters are Back in San Francisco: Here's What You Need to Know

The city's given the green light to a one-year pilot, to figure out if dockless, shared electric "kick scooters" deserve a permanent place in the city

By Jonathan Bloom • Published October 19, 2018 • Updated on October 19, 2018 at 1:46 pm

Changing Legal Landscape of Escooters

- Comprehensive survey of state and municipal laws that provide a big-picture look at the escooter sharing market in the United States.
  - Available at: https://www.morganlewis.com/pubs/2021/01/state-and-local-survey-of-laws-regulating-escooter-sharing-services



Changing Legal Landscape of Escooters

- Key Takeaways from Escooter White Paper:
  - Shared micromobility systems are in place in 46 states and Washington, D.C., and use is expected to continue to grow
  - Escooter trips rose to 136 million in 2019, a 60% increase from the previous year
  - States and cities are beginning to incorporate escooters into city planning decisions

Changing Legal Landscape of Escooters

- State of California
  - Escooters are legal in California at the state level since January 2019.
    - Under California law, escooters are prohibited from traveling above the speed of 15 mph on any public road or bike lane. Cal. Veh. Code § 21235.
    - Escooters are prohibited on sidewalks. Cal. Veh. Code § 21235(g).
    - Riders must have a valid driver's license. Cal. Veh. Code § 21235(d).
    - Helmets are required for riders under 18. Cal. Veh. Code § 21235(c).

Changing Legal Landscape of Escooters

- Los Angeles, California
  - In 2018, the City Council of Los Angeles approved a set of regulations that allowed companies to deploy up to 10,500 dockless escooters and bikes.
    - Los Angeles offered one-year permits to three escooter companies starting in March 2019. Los Angeles, Cal. Ordinance 185785.

Changing Legal Landscape of Escooters

- Washington, D.C.
  - In 2020, Washington, D.C. issued operating permits to eight escooter companies to provide 20,000 escooters by October 2023.
    - Escooters required to be placed in all eight wards.
    - Escooter companies required to install docking racks around the District.

Changing Legal Landscape of Escooters

- Pennsylvania and Philadelphia
  - Escooters are illegal in the state
    - In February 2019, Pa. H.B. 631 sought to amend Title 75 of the Pennsylvania Code to include "electric low-speed scooters" and grant additional powers to the Pennsylvania Department of Transportation and municipalities to regulate escooters; no action.

Changing Legal Landscape of Escooters

- **Escooter market is continuously evolving and changing**
  - New York City legalized escooters
    - NYC selected three escooter companies to provide 1,000 Escooters in its pilot program
    - Begins in June 2021 and limited to the Bronx
    - Most escooter rides will cost less than $5 per ride
    - Still illegal in Manhattan
  - Boulder, CO allowed for widespread Escooter usage
    - Escooters can be operated on sidewalks, residential streets, and bike lanes
    - Established "dismount zones" in high congestion areas like University Hill to keep sidewalks clear

Changing Legal Landscape of Escooters

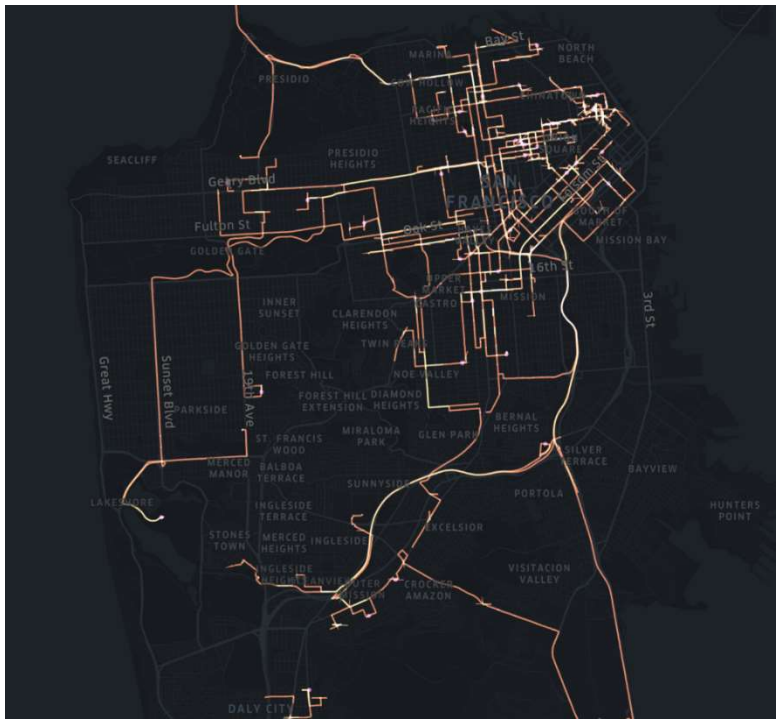
- **Autonomous Delivery Robots**
  - Micromobility startups shifting to autonomous robot delivery
    - Food delivery services in use at:
      - James Madison University
      - Arizona State University
  - Further reduces roadway congestion caused by food delivery cars

Changing Legal Landscape of Escooters

- **Autonomous Delivery Robots**
  - Pennsylvania laws allow autonomous delivery robots to operate on sidewalks and classifies them as "pedestrians"
    - Maximum top speed of 12 mph in a pedestrian area, 25 mph on a roadway, and a load limit of 550 pounds
  - Twelve states, including Washington, D.C., have passed similar autonomous delivery robot laws

Changing Legal Landscape of Escooters

- **Data Privacy Concerns:**
  - Trip data contains riders' home addresses and travel behavior
  - Cities claim that trip data information will help urban planning
  - Data breaches and exposure of sensitive personal information



Changing Legal Landscape of Escooters

- **Antitrust & Competition: Manufacturing/Supply Chain**
  - Antitrust enforcement of *exceptional* vertical mergers that would lead to market foreclosure of inputs or distribution/sales.
    - DOJ and FTC's *Vertical Merger Guidelines* – Sect. 4, Unilateral Effects – Example 6

Example 6: Merger of complements raising vertical issues

Situation: Manufacturers use batteries and motors when making electric scooters. Electric scooter manufacturers use different batteries and motors based on their production technologies. The two components are complements: manufacturers make more scooters, and demand more of both components, when the price of either component falls. All components are sold under contracts that specify a constant unit price. The leading maker of motors for scooters merges with a manufacturer of batteries for scooters.

Discussion: Motors and batteries are complementary inputs into the production of electric scooters. Neither input is upstream nor downstream from the other in the supply chain. The Agencies may investigate whether the merged firm would have the ability and incentive to disadvantage rival manufacturers of batteries. For example, the merged firm might do so by increasing the price of its motors (the related product) to its customers (*e.g.*, electric scooter manufacturers) that do not also buy the merged firm's batteries. The merged firm may also have an incentive to offer lower prices for batteries to its customers that do buy both components from it. If the Agencies conclude that both countervailing price effects are likely to be present post-merger, the Agencies will conduct a balancing of the effects to determine the net effect on the prices customers will likely pay.

The Agencies may also use an analysis similar to the above to investigate whether the merged firm would have the ability and incentive to disadvantage rival manufacturers of motors (in an additional relevant market) by increasing the price of batteries (the related product) to its customers that do not also buy the merged firm's motors.

Virtual Mobility

Morgan Lewis

Before the pandemic Americans spent

5%

of their working time at home

The Economist, April 8, 2021

By spring 2020 the figure was

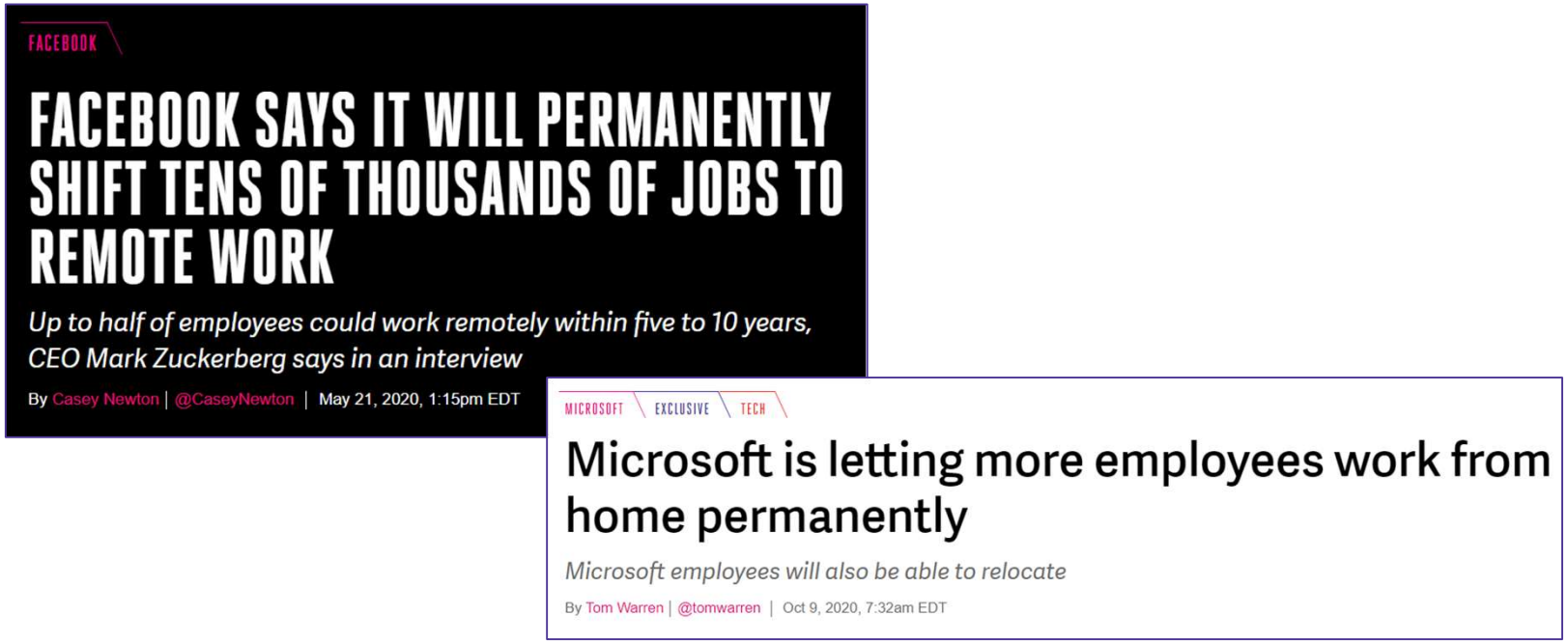
60%

The Economist, April 8, 2021

The virus has broken through cultural and technological barriers that prevented remote work in the past, setting in motion a structural shift in where work takes place, at least for some people.

McKinnsey Global Institute
November 2020

Remote Work Trends



FACEBOOK

FACEBOOK SAYS IT WILL PERMANENTLY SHIFT TENS OF THOUSANDS OF JOBS TO REMOTE WORK

Up to half of employees could work remotely within five to 10 years, CEO Mark Zuckerberg says in an interview

By Casey Newton | @CaseyNewton | May 21, 2020, 1:15pm EDT

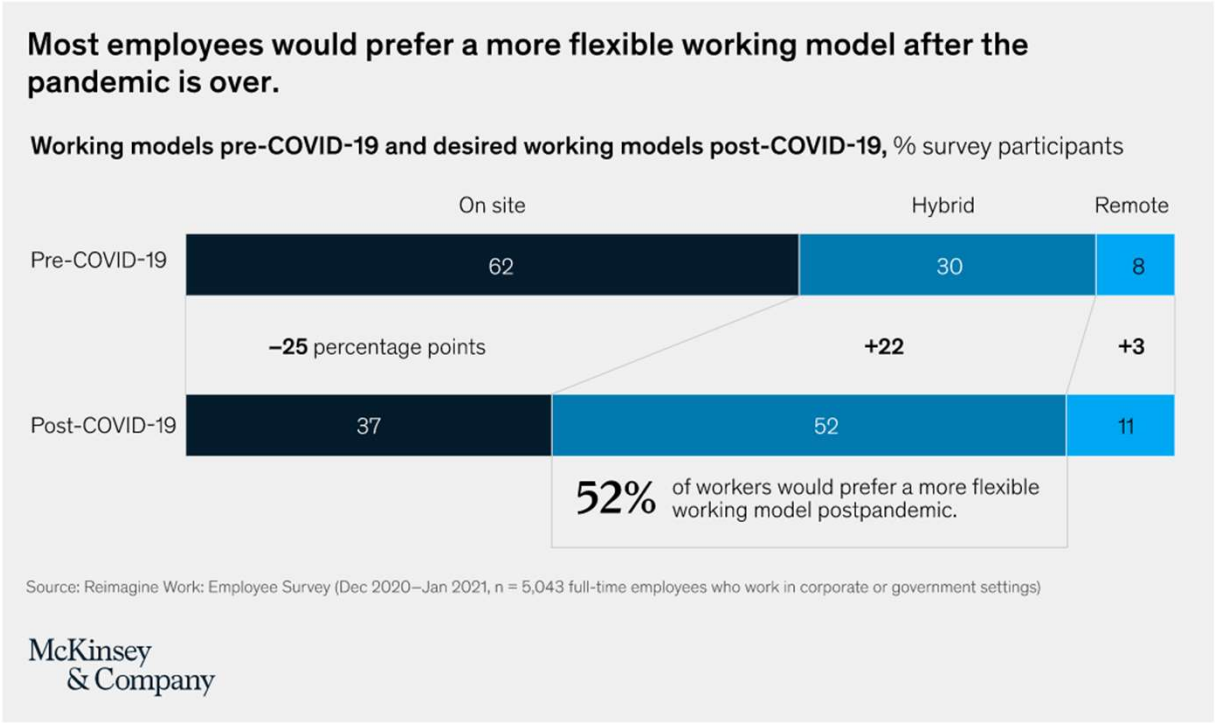
MICROSOFT EXCLUSIVE TECH

Microsoft is letting more employees work from home permanently

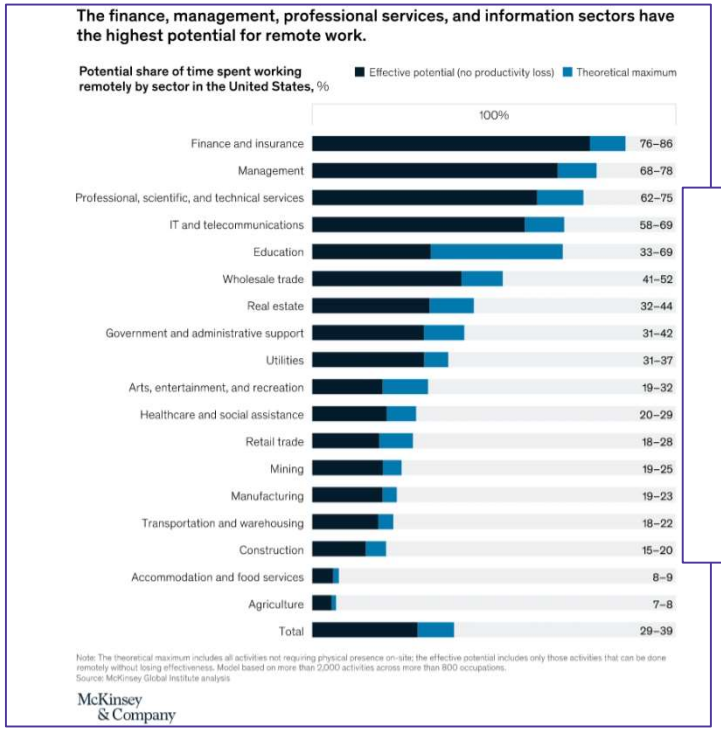
Microsoft employees will also be able to relocate

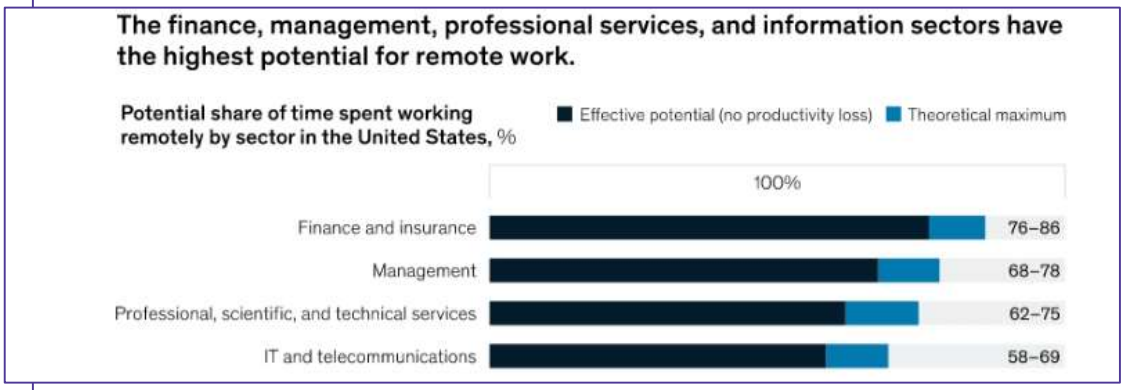
By Tom Warren | @tomwarren | Oct 9, 2020, 7:32am EDT

Employees Want Flexibility in Remote Work



Post-Pandemic Remote Work Potential by Industry

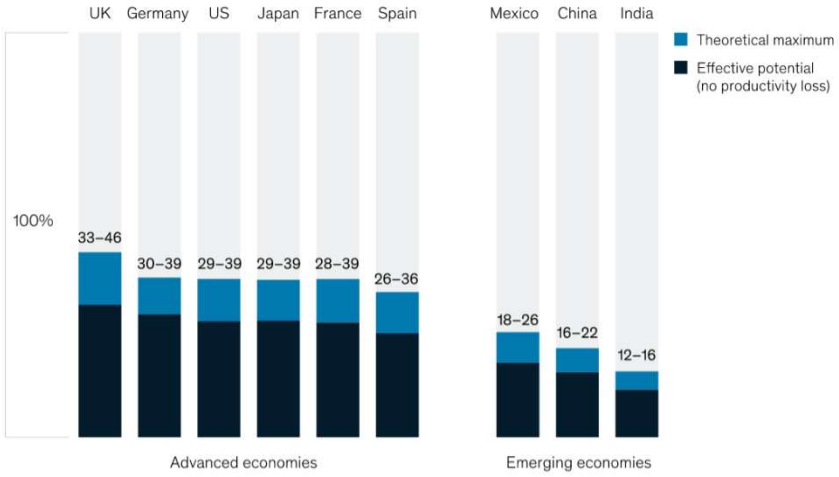




Post-Pandemic Remote Work Worldwide

Labor forces in advanced economies can spend more time working remotely than workforces in emerging economies.

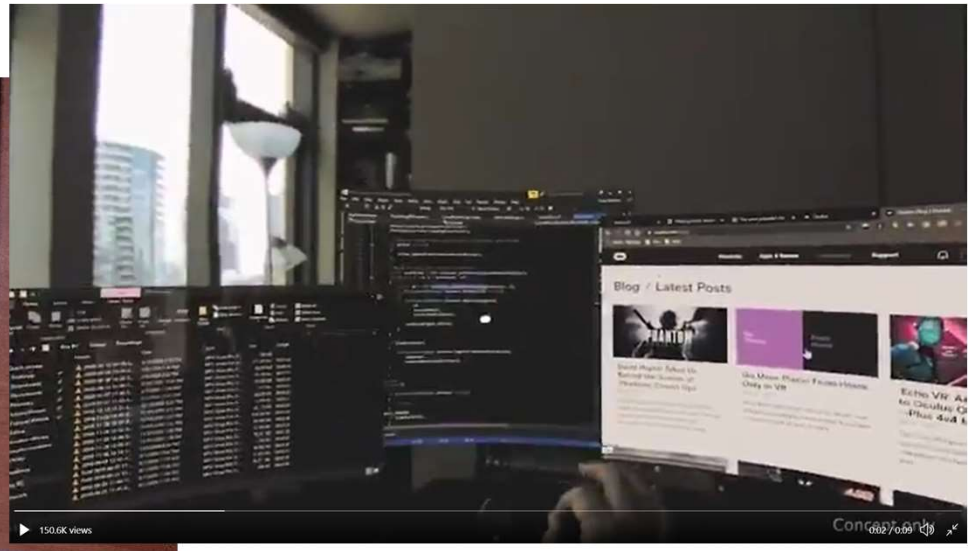
Potential share of time spent working remotely by country, %



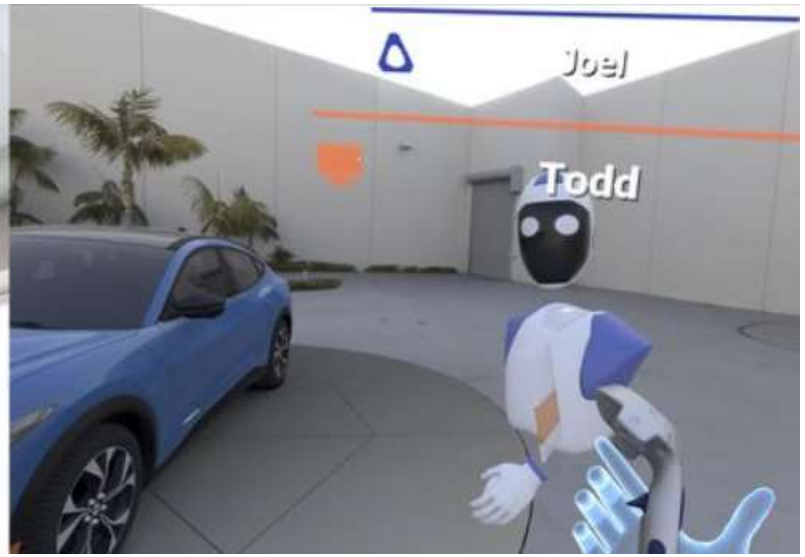
Note: The theoretical maximum includes all activities not requiring physical presence on-site; the effective potential includes only those activities that can be done remotely without any loss of effectiveness. Model based on more than 2,000 activities across more than 800 occupations.
Source: McKinsey Global Institute analysis

McKinsey & Company

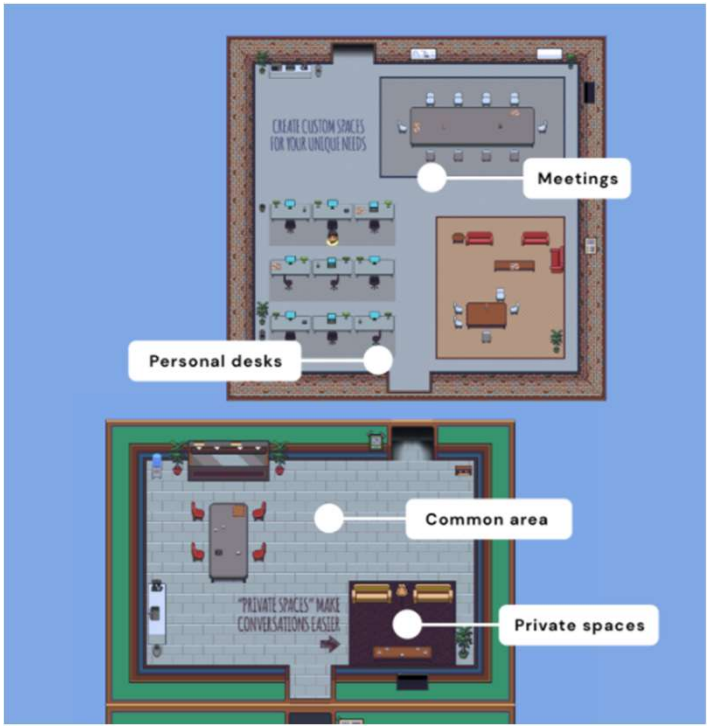
Virtual Collaboration and Meetings

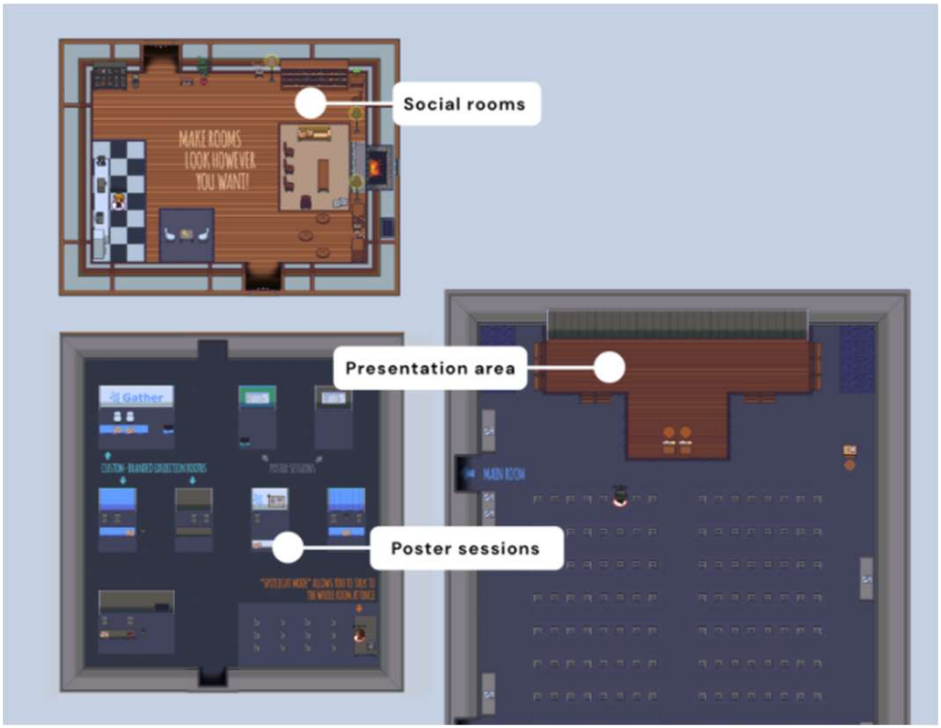


Virtual Collaboration and Meetings

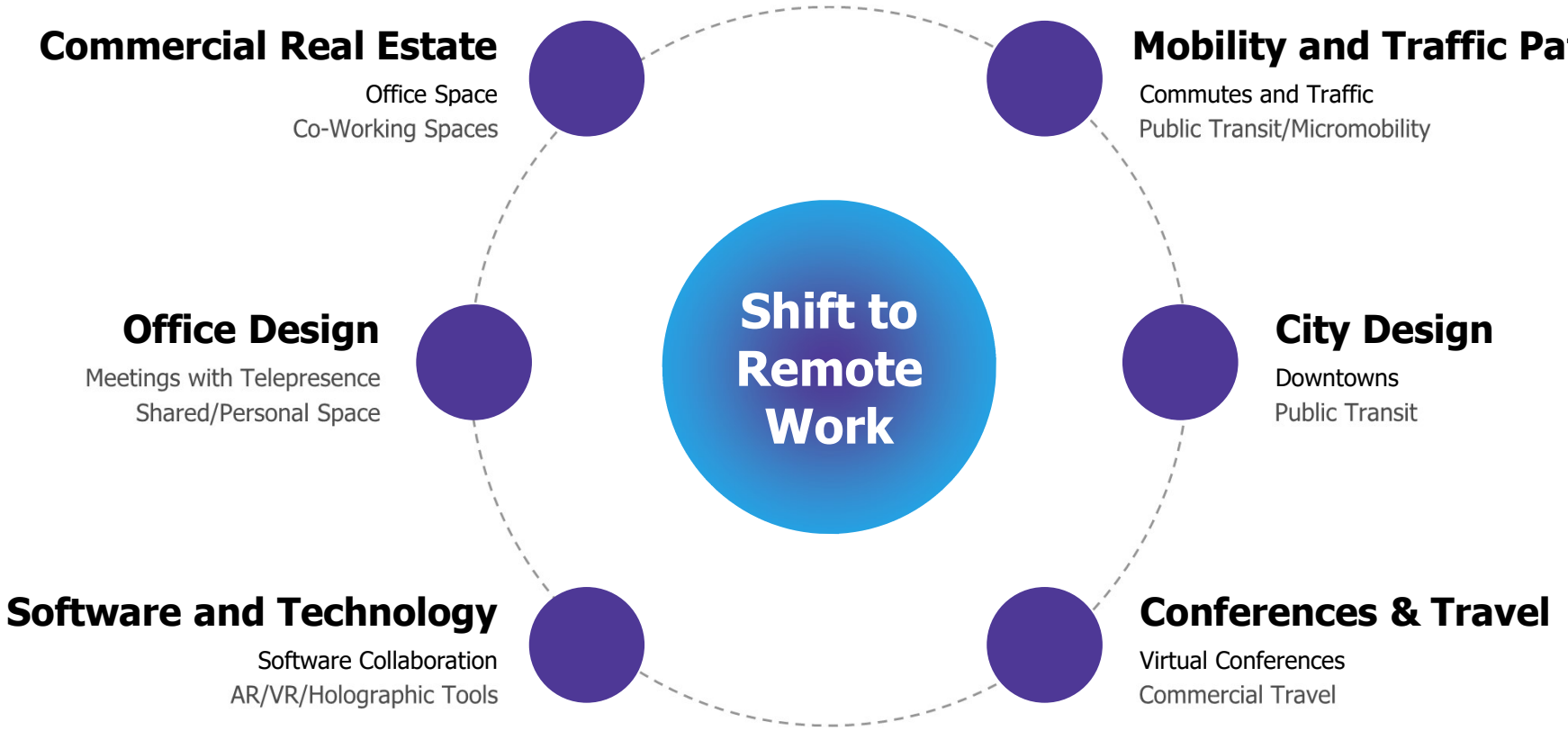


Virtual Shared Spaces and Conferences





Putting the “Remote” in Remote Work


Commercial Real Estate
Office Space
Co-Working Spaces
Mobility and Traffic Patterns
Commutes and Traffic
Public Transit/Micromobility
Shift to Remote Work
Office Design
Meetings with Telepresence
Shared/Personal Space
City Design
Downtowns
Public Transit
Software and Technology
Software Collaboration
AR/VR/Holographic Tools
Conferences & Travel
Virtual Conferences
Commercial Travel

Legal Implications

LAWFLASH

CALIFORNIA AND SOUTH CAROLINA RELEASE GUIDANCE ON REMOTE WORKING AND INCOME TAX NEXUS

October 13, 2020 (Updated April 15, 2021)

A corporation whose only tie to California is its employees working remotely due to the stay-at-home order will not be considered to be doing business in the state. Similarly, South Carolina has extended its coronavirus (COVID-19) relief period to employers through September 30, 2021.

IN THE NEWS

ADAPTING EMPLOYEE INVESTIGATIONS TO THE WORLD OF REMOTE WORKING, *INTERNATIONAL EMPLOYMENT LAWYER*

March 10, 2021

Morgan Lewis partner Louise Skinner was quoted by *International Employment Lawyer* in an article about conducting employee investigations while businesses are operating remotely. In the piece, Louise shares some best practices for employers to overcome any obstacles in conducting investigations while everyone is working from home. "If the employer has a procedure or policy in place, such as a grievance or disciplinary policy, they should ensure the necessary procedural steps are followed, and that the parties to the investigation are made aware of the steps involved," Louise said. "A clear investigation plan at the outset will ensure all relevant issues are explored and that the investigation can be completed without delay."

Legal Implications

CLE COURSES

DEALING WITH REMOTE WORKFORCE: TAX AND BENEFITS ISSUES

BLOG POST

TECH & SOURCING @ MORGAN LEWIS

TECHNOLOGY, OUTSOURCING, AND COMMERCIAL TRANSACTIONS NEWS FOR LAWYERS AND SOURCING PROFESSIONALS

Service Locations and Remote Work Following COVID-19

February 25, 2021

OTHER PROVISIONS

Other provisions requiring review against remote work arrangements may include the following:

- Subcontracting requirements
- Use of premises
- Business continuity planning and disaster recovery
- Availability of personnel and key personnel provisions
- Customer policies and procedures and supplier code of conduct
- Insurance policies (do they exclude remote work arrangements?)
- Governance structures and notice provisions

The Future of Mobility

Morgan Lewis

The Future: Infrastructure and Micromobility

- Build Back Better – Biden Administration's $2.2 trillion infrastructure plan
  - Primary Goal: Create a modern, sustainable infrastructure plan based on clean energy
    - U.S. economy will achieve net-zero emissions by no later than 2050

The Future: Infrastructure and Micromobility

- Build Back Better – Increase access to high-quality and zero-emissions options for affordable, reliable public and micromobility transportation
  - Focuses on cities and municipalities with populations of more than 100,000 people
    - Federal investments in light rail networks, commuter transit, and bus lines
    - Infrastructure for pedestrians, cyclists, and riders of escooters and other micromobility vehicles and integrate technologies like machine-learning optimized traffic lights

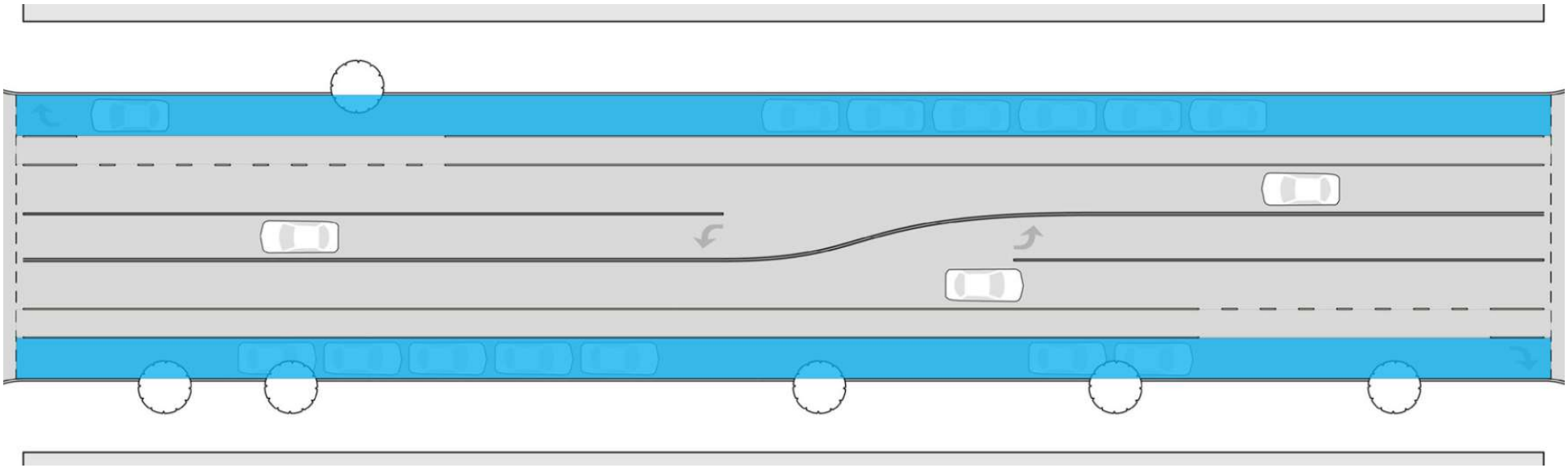
Slow Streets: A Path to Permanence

The Future: Infrastructure and Micromobility

- During the COVID-19 lockdowns, cities and municipalities began to close off roadways to cars and limit access to pedestrians and micromobility devices
  - This trend is expected to continue post-COVID-19, which will allow for the expansion of escooter usage.
    - By the end of 2021, New York City will have closed more than 100 miles of streets to vehicular traffic in the five boroughs
      - Montreal -- 198 miles
      - Paris -- 31 miles
      - Brussels -- 25 miles
      - Milan -- 22 miles

The Future: Infrastructure and Micromobility

- **The Future of Urban Streets – Introduction of the "Third Lane"**



Rendering: Gensler Research & Insight

The Future: Infrastructure and Micromobility

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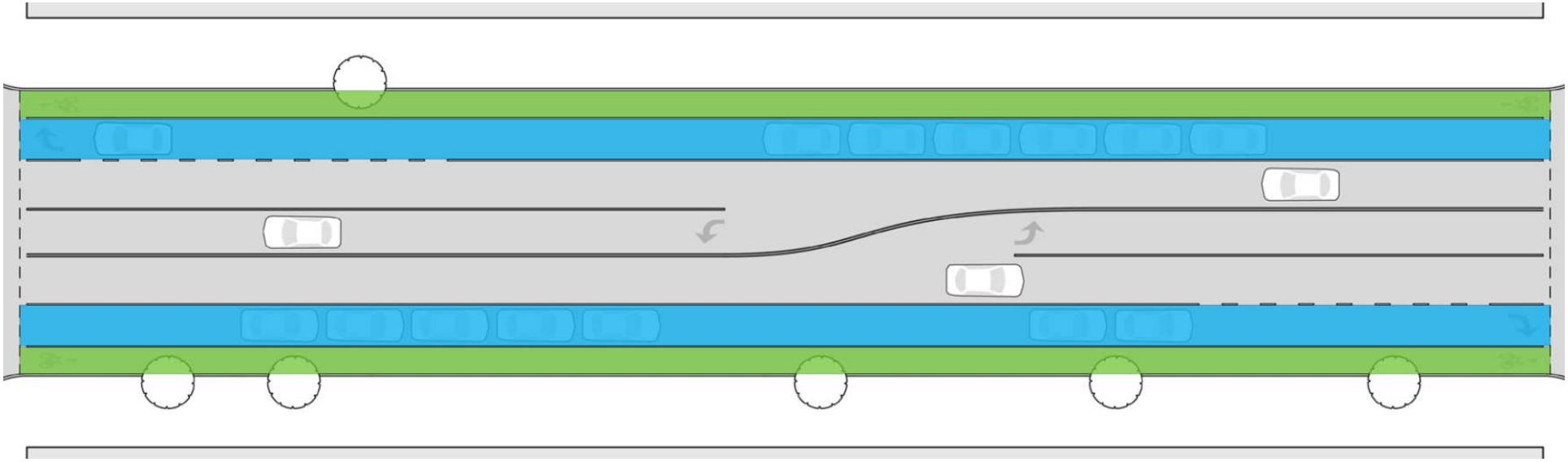

Rendering: Gensler Research & Insight

The Future: Infrastructure and Micromobility

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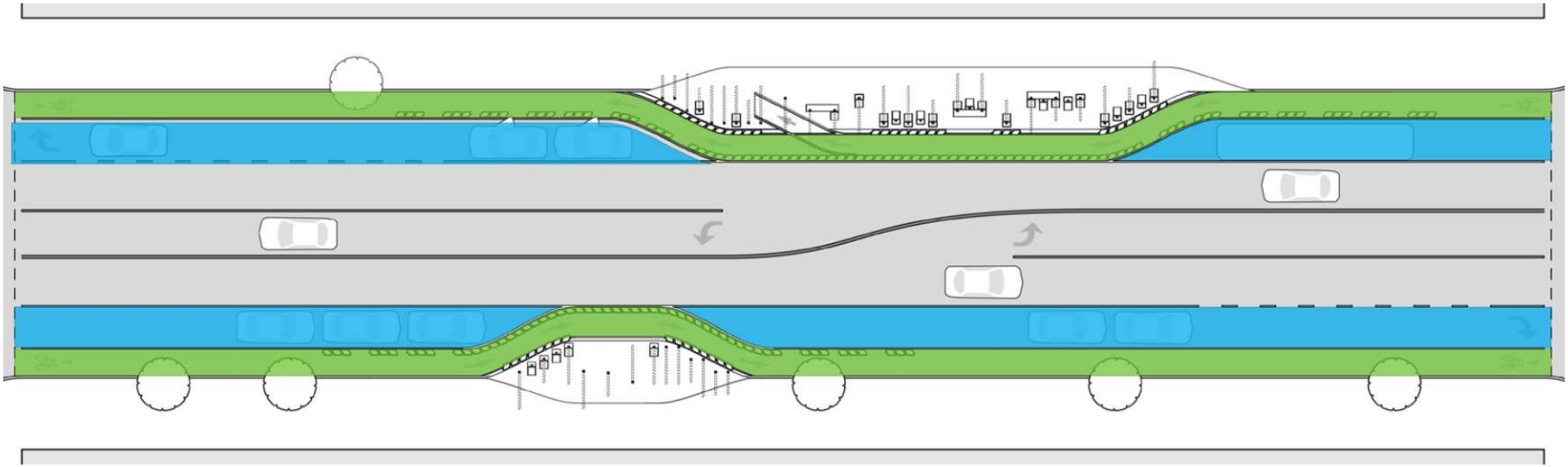
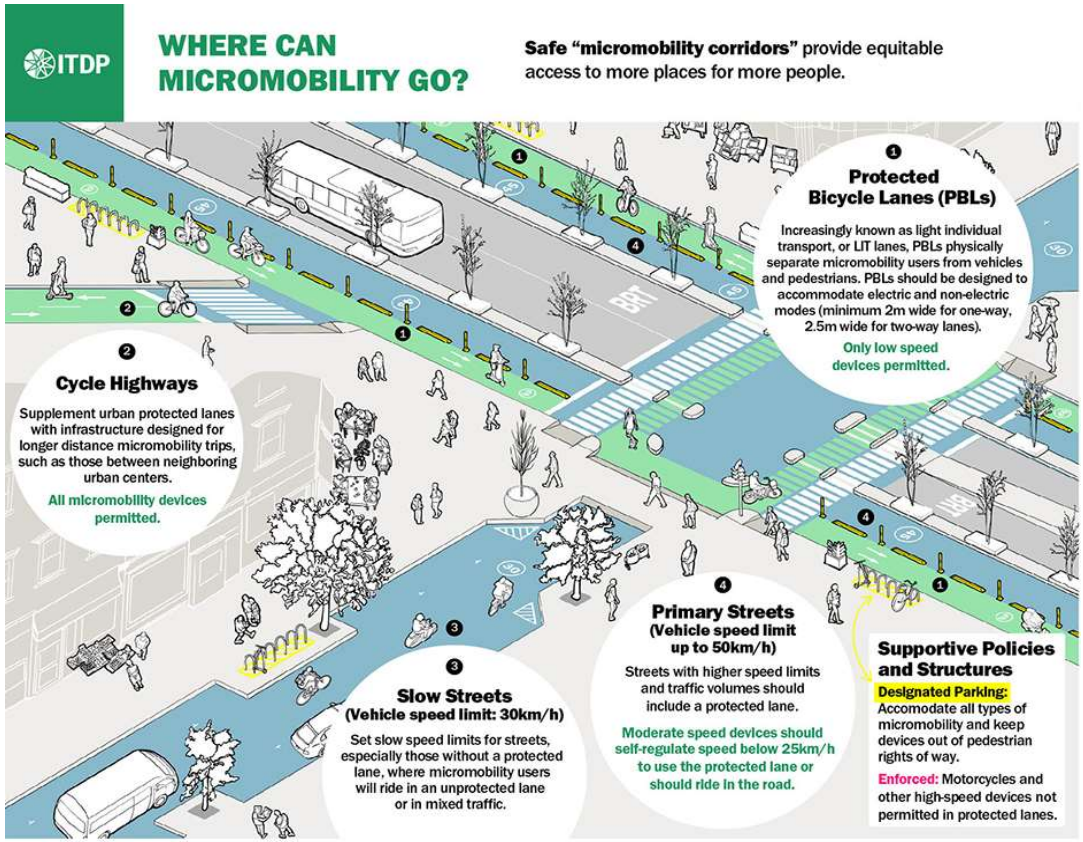


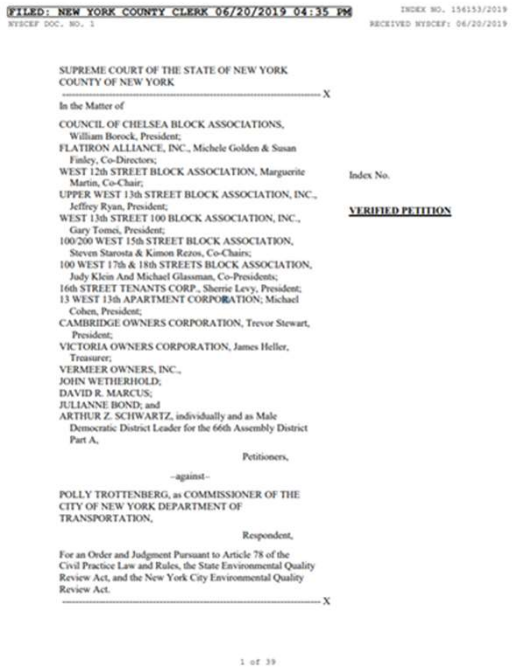
Rendering: Gensler Research & Insight

The Future: Infrastructure and Micromobility



The Future: Infrastructure and Micromobility

- ***Council of Chelsea Block Associations, et al. v. Trottenberg***



FILED: NEW YORK COUNTY CLERK 06/20/2019 04:35 PM INDEX NO. 156153/2019
NYSCEF DOC. NO. 1 RECEIVED NYSCEF: 06/20/2019

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

In the Matter of

COUNCIL OF CHELSEA BLOCK ASSOCIATIONS, William Borock, President; FLATIRON ALLIANCE, INC., Michele Golden & Susan Finley, Co-Directors; WEST 12th STREET BLOCK ASSOCIATION, Marguerite Martin, Co-Chair; UPPER WEST 13th STREET BLOCK ASSOCIATION, INC., Jeffrey Ryan, President; WEST 13th STREET 100 BLOCK ASSOCIATION, INC., Gary Tomei, President; 100/200 WEST 15th STREET BLOCK ASSOCIATION, Steven Starosta & Kimon Rezos, Co-Chairs; 100 WEST 17th & 18th STREETS BLOCK ASSOCIATION, Judy Klein And Michael Glassman, Co-Presidents; 16th STREET TENANTS CORP., Sherrie Levy, President; 13 WEST 13th APARTMENT CORPORATION; Michael Cohen, President; CAMBRIDGE OWNERS CORPORATION, Trevor Stewart, President; VICTORIA OWNERS CORPORATION, James Heller, Treasurer; VERMEER OWNERS, INC., JOHN WETHERHOLD; DAVID R. MARCUS; JULIANNE BOND; and ARTHUR Z. SCHWARTZ, individually and as Male Democratic District Leader for the 66th Assembly District Part A,

Petitioners,

–against–

POLLY TROTTENBERG, as COMMISSIONER OF THE CITY OF NEW YORK DEPARTMENT OF TRANSPORTATION,

Respondent,

For an Order and Judgment Pursuant to Article 78 of the Civil Practice Law and Rules, the State Environmental Quality Review Act, and the New York City Environmental Quality Review Act.

Index No.

VERIFIED PETITION

1 of 39

"DOT has come up with a new 'rationale' for the Corridor Plan, since the original rationale was no longer viable," the suit alleges. "That rationale (making bus service faster) amounts to no more than PR material. The result, Petitioners contend, will be increased vehicular traffic on all east and westbound streets between 12th Street and 20th Street, bringing with it air pollution, noise, and vibrations endangering the 19th century buildings which line these blocks, challenging the character of the Greenwich Village, Chelsea, and Flatiron communities, and likely causing delay in the crosstown transit of emergency vehicles."

The Future: Infrastructure and Micromobility

San Francisco County Transportation Authority

Projects & Studies | Funding | Policies & Initiatives | Tools & Data | What's Happening | About Us

< Back to Project List

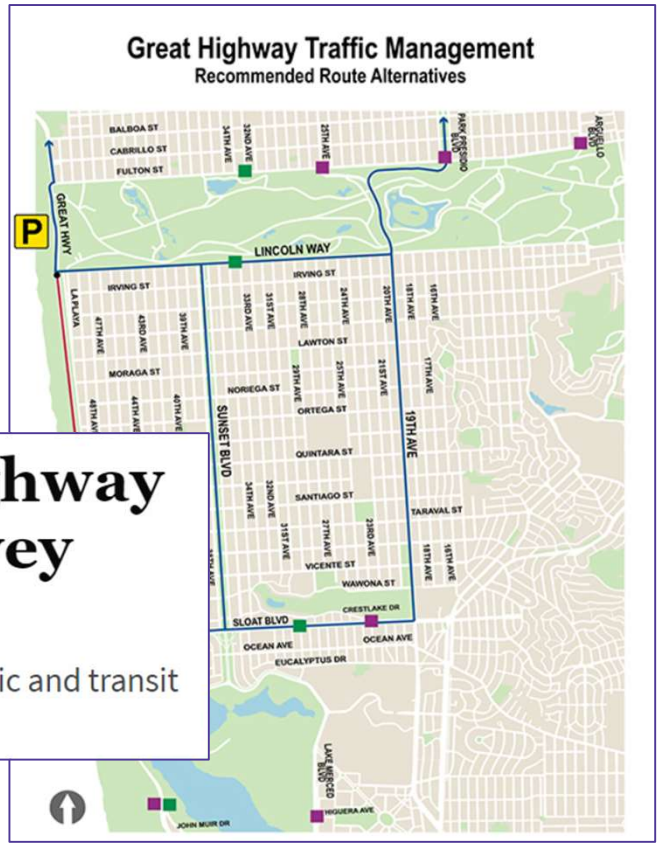
District 4 Mobility Study

Overview | Key features | Public engagement | Reports & documents

Closing Upper Great Highway for good is popular, survey finds

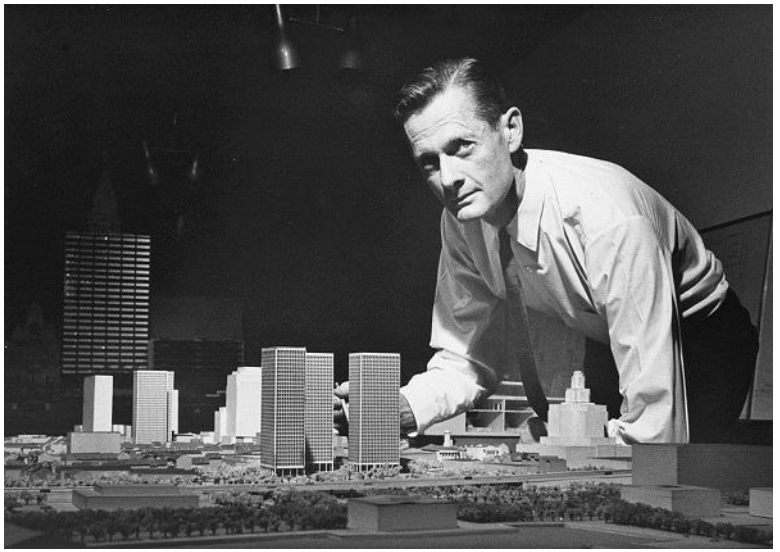
Going car-free would not come without impacts to traffic and transit

CARLY GRAF / Mar. 29, 2021 6:40 p.m. / NEWS / NEWSLETTER / THE CITY



The Future: Infrastructure and Micromobility

- Cities must integrate micromobility solutions into city planning



Pictured: Edmund Bacon, Executive Director of Philadelphia Planning Commission, 1949-1970

Questions?

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Coronavirus COVID-19 Resources

We have formed a multidisciplinary **Coronavirus/COVID-19 Task Force** to help guide clients through the broad scope of legal issues brought on by this public health challenge.

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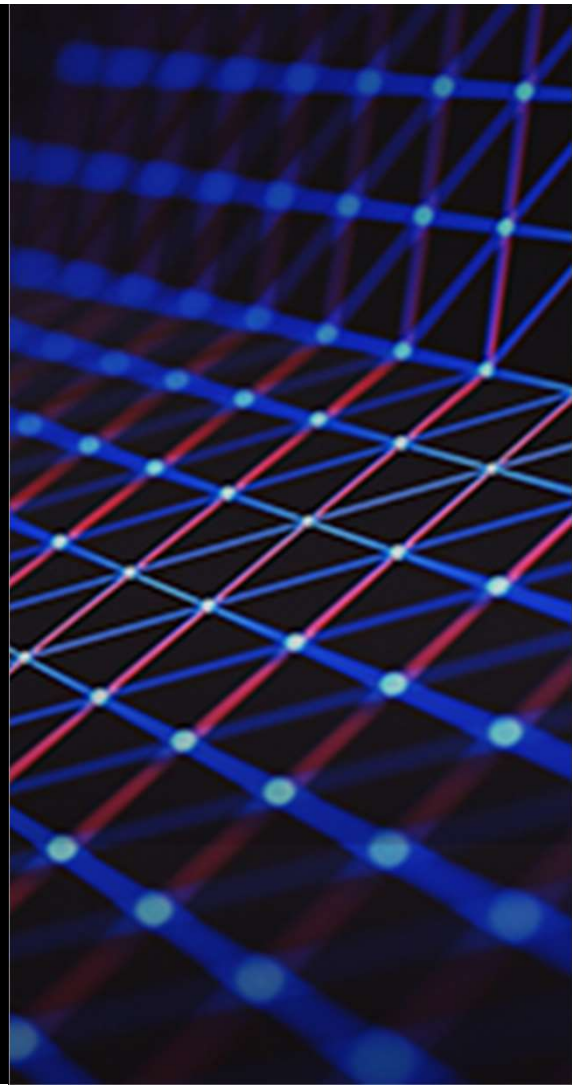
To help keep you on top of developments as they unfold, we also have launched a resource page on our website at **www.morganlewis.com/topics/coronavirus-covid-19**

If you would like to receive a daily digest of all new updates to the page, please visit the resource page to **subscribe** using the purple "Stay Up to Date" button.



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Latin America
Middle East
North America

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Chicago
Dallas
Dubai
Frankfurt
Hartford
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Houston
London
Los Angeles
Miami
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New York
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