

THE REAL DEAL

Appeals court OKs lifting seal on Turtle Bay crane collapse wrongful death settlements

Site is home to HFZ Capital's Halcyon NY condo project

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By Hiten Samtani

A New York state appeals court has upheld a lower court judge's decision to unseal documents relating to multiple wrongful death settlements in a 2008 Turtle Bay crane collapse, *The Real Deal* has learned. The site is home to HFZ Capital Group's Halcyon NY condominium development.

The March 2008 crane accident at 303 East

51st Street, between First and Second avenues, killed seven people and damaged nearby buildings, including the site of restaurant Crave Foods and 305 East 50th Street, home of co-plaintiff Jean Squeri. The settlements that resulted from the wrongful death cases were originally sealed by Judge Carol Edmead after one of the trials, so that that previous judgments would not impact the ones pending.

In December 2011, Crave, together with Squeri, convinced the trial court to lift the seal on the agreements, on the grounds that they would need information in the documents to guide them towards a reasonable settlement of their 2008 case. In a January 2012 ruling, Judge Edmead said that there was no longer any justification for keeping the documents private, given that the wrongful death cases had been resolved.

The defendants — including the site's then-owner Kennelly Development, construction firms Rapetti Rigging and Reliance Construction, and crane operator New York Crane — appealed the decision shortly after, arguing that the continued sealing of court records would prevent parties from using information about prior settlements to establish “an artificial threshold” in evaluating their own cases, according to court records.

But New York Appellate Court judges Peter Tom, Angela Mazzaelli, Dianne Renwick, Leland DeGrasse, in a Thursday ruling, affirmed Judge Edmead's decision.



303 East 51st Street and Colin Kaufman

“Records should not be sealed to enable one party to have an advantage over another,” the court said.

“What we were urging throughout,” said Crave’s attorney **Colin Kaufman** of law firm **Adam Leitman Bailey, P.C.**, “is that absent some compelling reason, court records should be open to the public, and there was no compelling reason here.”

Attorneys for the defendants could not immediately be reached for comment.

HFZ’s Halcyon NY will top out at 32 stories, with a total of 123 condos, as *The Real Deal* reported. HFZ’s involvement with the property dates back to October 2009, when the firm agreed to pay \$38 million to acquire the note on the building from lender Arbor Realty Funding, which had foreclosed on Kennelly Development.

In February of this year, HFZ was forced to temporarily stop work at the site, after a contractor hit a live gas line, as *The Real Deal* reported.