

THE REAL DEAL

Harlem businesses settle suit against Kimco

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By Lauren Elkies

Five small displaced Harlem business owners have settled their lawsuit against Kimco Realty, one of the country's largest shopping center developers, and its partner the Sigfeld Group, attorneys said.

Although the businesses still must close by September 30, a settlement was reached last week in New York State Supreme Court for an undisclosed sum of money. Sources said the case was settled for more than \$1 million.

The developers bought the sprawling two-story property at 125th Street and Frederick Douglass Boulevard last summer for \$30 million, with plans to demolish the complex and erect a shopping center, said the plaintiffs' attorney, Adam Leitman Bailey.



Manna's Restaurant, a plaintiff

Kimco and Sigfeld encountered strong resistance from the tenants, who claimed they were fighting to stave off gentrification and that the lease clauses calling for their eviction were illegal. The evictions "would end the old Harlem as we knew it," Bailey said.

According to the complaint, filed in January, the plaintiffs said the defendants sought "to demolish the building..., eradicate its ties to the culture and history of Harlem's main street hub, and rip out the heart and soul of Harlem, while replacing it with a generic shopping mall ..."

The [battle unfolded](#) on the streets with tenants petitioning the developer and protesting the eviction in October 2007. They sought landmark status for the property and introduced legislation in the city council to create a historic Harlem district that would preserve businesses run by Harlem residents.

Of the 16 tenants in the complex, some closed and others settled right away with the new owners, including [Bobby's Happy House](#), a beloved record store that opened in the 1940s.

Five tenants, plus preservation association Save Harlem Association, held out and hired Bailey to take it to the courts: House of Seafood, Body-Lawson Associates, Roti Plus, Manna's Restaurant and Million Nail Salon.

"The key to the case was the judge granting a temporary injunction that prevented Kimco from evicting the tenants and proceeding with the demolition," Bailey said.

The tenants are "ecstatic," Bailey said, but added, "If we had a stronger case we would have gotten a lot more money." All of the retailers intend to re-open elsewhere in the neighborhood, Bailey said.

"We're very happy," said Kimco and Sigfeld's attorney Scott Balber of Chadbourne & Parke. He added

that it was "a win-win for everybody," because the tenants have an opportunity to relocate and the developers can start work on their project, which is slated to include community, office and retail space.

The developers are moving forward with preliminary work on the façade, cleaning out some areas and continuing to seek approvals from the city.