

THE REAL DEAL

Firefighter's Efforts to Block Park51 Thwarted

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By David Jones



From left: Developer Sharif El-Gamal of Soho Properties, rendering of Park51 and Sept. 11 firefighter Timothy Brown

A state Supreme Court judge denied a request by Sept. 11 firefighter Timothy Brown to block the construction of Park51, the controversial Islamic mosque and community center from developer Sharif El-Gamal's Soho Properties, in Lower Manhattan.

Judge Paul Feinman rejected the motion for a temporary restraining order on the proposed project, located at 45-47 Park Place, which is more than two blocks away from the World Trade Center.

"We are delighted that the judge is allowing the completion of the community center to go forward," said **Adam Leitman Bailey**, Soho Properties' attorney. "We are looking forward to the final resolution of the case. May all Americans be able to pray when they want, where they want."

Jack Lester, Brown's attorney, now says the TRO would not have had a major impact on the case since lawyers for the developer stated that the existing site would remain intact for the near term. It was not immediately clear when demolition will begin.

"One of the standards for a TRO is there has to be imminent danger or imminent threat," Lester said. "We were trying to get a TRO to prevent demolition of the building. The case is exactly where it was the day we filed it."

Brown filed a so-called Article 78 lawsuit to overturn the 2010 decision by the city's Landmarks Preservation Commission denying landmark status to the site of the Islamic center and mosque.

The project became the center of a political firestorm amid claims that the Islamic center was located too close to Ground Zero, where almost 3,000 died on Sept. 11, 2001.

Brown, a first responder during the Sept. 11 attacks, attended many of the Landmarks hearings and

claimed that the building deserved to be designated as a landmark, which would prevent any new construction from taking place at the site. A Washington-based organization called the American Center for Law and Justice, which has argued on behalf of numerous anti-abortion, religious freedom and other hot button issues, is backing Brown in the Park51 case.

Meanwhile a hearing is scheduled for Feb. 22, when lawyers for the plaintiff will fight a motion to dismiss filed last week by Soho Properties.

In that filing, Soho Properties argued that the lawsuit should be dismissed because the firefighter is not an injured party due to the Islamic center plan. The developer also noted that the lawsuit named Soho Properties as a defendant, but failed to name the actual owner of the building, 45 Park Place Partners.

Lester yesterday cited Landmarks hearing transcripts on which El-Gamal and other witnesses stated that Soho Properties was both the developer and owner of the property. But, Lester admitted that 45 Park Place is listed on the city's Department of Finance records as the owner of the building.

Bailey argued in court documents that the statute of limitations has run out on the plaintiffs naming the proper party, but Lester says the case can still be amended to name the proper party.

Virginia Waters, senior counsel in the administrative law department, who represented the city in the mosque case, said the judge's decision was appropriate.

"Since there is little likelihood that the plaintiff will prevail in this matter, we believe that the denial of his application for a Temporary Restraining Order was warranted," she said.

El-Gamal was not immediately available for comment.