



## **Thoughts on avoiding damage due to crane collapse - by C. Jaye Berger**

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C. Jaye Berger

The city seems so crowded at times, it's like we're all working on top of one another. Now that a few weeks have passed since the crane collapse in New York City, hopefully, all of the affected parties have filed at least the first phone call with the relevant insurance carriers to start the process of trying to obtain demands for damages.

This is a very complicated topic, but it all begins with the first communication with the insurance company claiming indemnification, which is when one party claims that another party should be responsible for their damages. In the case of a crane collapse, there are so many parties involved that many insurance carriers will no doubt be involved. For example, the operator of the crane may be an employee of another contractor on the project or of the construction manager. It can take a while for all these parties to be notified and submit a defense. The property managers should gather all relevant contracts and make sure they have them all and they're signed.

Since most of these buildings have property management companies, people already have the certificates of insurance in order to start the process of making a claim, all these cases can start off quickly with notices being filed very quickly. People want to know what can be done to prevent this type of thing from recurring. It would seem that if everyone knows the work was going to be done on a particular day, the building department could issue designated dates for the work to occur so that the nearby buildings could be prepared and vacated. The work must be done slowly under the supervision of construction professionals and the building department. There may need to be advanced street closings to ensure nothing will interfere with occupants of other buildings.

The crane was in the vicinity of the building across the street and would hit it if it collapsed. It might have been helpful if air representatives from the building department could have been there and created a zone of safety around the crane area. These answers are followed by motions to dismiss and appeals. All of these things take a long time to be decided and are interspersed with conferences with the court and other attorneys.

Motions with extensive legal briefs will be filed which must be responded to. There will be oral arguments on these motions, decisions, and appeals of those decisions. All of this is very time-consuming. The site and the equipment will be visited by all parties and photographed extensively to help determine whether the damage was caused by human error, the equipment itself or something else.

If it comes out that there had been lawsuits years ago against the equipment company, if there isn't enough coverage, the parties may need to reach out to the excess insurance carriers and put them on notice of this. The equipment itself may be sent elsewhere to be tested. All of this is separate from any personal injury that may have occurred. Sometimes these cases are mediated, which is a lot like having a trial. If the insurance coverage seems low, there may be claims made against the excess insurance carriers under the policies. In any event, it is a long time before anyone may see any money in damages from these events. It's very time-consuming and still may not resolve the main case. If excess carriers are brought into the case, it is very much like starting the case over

again. Having some advance planning before the work starts can be helpful in avoiding damage.

C. Jaye Berger, Esq. is the founder of Law Offices C. Jaye Berger, New York, N.Y.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540