

WELCOME

Message to our Readers

Thank you for reading the Winter 2016 issue of the Welby, Brady & Greenblatt, LLP Construction Report. We are pleased to bring you a summary of new legal happenings related to the construction industry as well as highlight the impact Firm Partners and Associates are making on the Legal Industry and the markets we serve.

In this issue, we are pleased to present Legal Alerts written by our team. Paul G. Ryan, Partner, discusses NYC's New Crane Rules; Gregory J. Spaun, Partner, presents Indemnified For Your Own Negligence? The Loophole in Action; and Jared A. Hand, Associate, shares Public Owner Held Not Responsible for Contractor's Escalation Costs;

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NYC's New Crane Rules -Who's Going To Pick Up The Tab?

By: Paul G. Ryan, Partner



Paul G. Ryan

By now, I am sure all of you have heard about the recent crane collapse in New York City, and many of you may have even seen the video. As a result of this incident, Mayor DiBlasio has unilaterally changed the operating rules for cranes within the City of New York. As many of you may know, the City previously required cranes to cease operating at wind speeds of 30 miles per hour or greater.

Following the recent crane collapse, Mayor DiBlasio has lowered the wind speed threshold at which cranes must be shut down. Under the new set of rules currently in place, cranes are to stop operating and go into safety mode under two scenarios:

1. When there is a forecast of steady wind speed of 20 miles per hour or higher; or
2. Actual readings of gusts of at least 30 miles per hour

Prior to the recent incident, cranes were allowed to operate until measured wind speeds reached 30 miles per hour or gusts reached 40 miles per hour. These parameters being self-monitored by the operator of the crane within the cab.

Additionally, in an effort to ensure compliance, Mayor DiBlasio increased the fine for failing to take precautions to \$10,000.00 per infraction, up from the previous \$4,800 level. To put this in perspective, according to data provided by the City, based upon 2015 weather data, under the old operating rules, cranes were only required to cease operating due to wind conditions for a total of seven (7) days during 2015. However, had the new rules been

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