

Bond Case Briefs

Municipal Finance Law Since 1971

MUNICIPAL CORPORATIONS - NEW YORK

City of New York v. 32-45 37th Street LLC

Supreme Court, Queens County, New York - July 12, 2017 - N.Y.S.3d - 2017 WL 3136221 - 2017 N.Y. Slip Op. 27247

City filed application for order granting it access to land and exterior of building in order to set up protective scaffolding while it performed emergency demolition of adjoining abandoned premises.

Owners of building cross-moved for order converting proceeding into one for license to enter their premises “upon such terms as justice required” or, in the alternative, to dismiss petition.

The Supreme Court, Queens County, held that:

- The petition stated a cognizable cause of action, and
- City was not required to obtain permission of adjacent property owners and residents to demolish an unsafe structure or to put other safeguards in place to protect adjacent property owners, such as obtaining repair bonds in their favor or compelling its contractor to add them as additional obligees under performance bonds.

Application by New York City for order granting it access to land and exterior of building in order to set up protective scaffolding while it performed emergency demolition of adjoining abandoned premises stated a cognizable cause of action. Although provisions of New York City Administrative Code and New York City Charter authorizing demolition of unsafe buildings do not specifically grant city authority to enter onto adjacent property to do so, implicit in the provisions is inherent authority of city, pursuant to its broad police power, to remedy dangerous conditions that pose immediate threat to life and safety, and such police power gives city authority to do whatever is reasonable to effectuate mandates of Administrative Code and Charter relating to unsafe buildings, including entering upon adjoining property for the limited purpose of effecting the demolition of the neighboring property.

Provisions of New York City Administrative Code and New York City Charter authorizing demolition of unsafe buildings do not require city to obtain permission of adjacent property owners and residents to demolish an unsafe structure, or to put other safeguards in place to protect adjacent property owners, such as obtaining repair bonds in their favor, compelling its contractor to add them as additional obligees under performance bonds with city, obtaining insurance indemnification for relocation and lost rental income, or providing pre-construction inspection reports to them as conditions for their allowing demolition of unsafe building.