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City plans to appeal case that favored crane-operator union

Judge struck down provisions that would have allowed crane operators from outside NYC to operate here.

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The city will appeal a court decision that restored power to a small group of union crane operators late last month.

The plans to appeal, which were disclosed by a real estate trade group, would bring to the state's second-highest court a case simmering for years over how crane operators working on large construction sites are licensed. While arguments have focused on safety, the case could prove lucrative for either the union or real estate developers, depending on the outcome.

The litigation began in 2012, when the city changed the licensing requirements for crane operators. The new policies were designed to open competition to companies from around the country by switching to a test administered by a national organization rather than one by the city. The revisions also allowed crane operators to gain experience in other cities instead of apprenticing only on a local site.

Shortly after the new rules were implemented, a lawsuit was filed by the International Union of Operating Engineers Local 14-14B, whose members work on a large portion of construction cranes in the city.

The union objected to the changes, which applied to the city's largest construction sites. On Oct. 29 of this year, Justice Paul Wooten struck down those regulations.

The city's plan to appeal that court decision has the support of the development community, which argues the national test is more rigorous and modern, and that skilled crane operators can be found in other cities.

"This court decision, if allowed to stand, will lead to construction sites that are less safe by weakening the standards and requirements for obtaining crane licenses," REBNY President John Banks said in a statement. "We applaud the City of New York for appealing this ill-considered opinion."

On the other hand, Local 14 argues that New York City's building environment is uniquely dense, and that operators trained in smaller cities would put workers and the public in danger.

"[Wooten's] understanding of the unique dangers of crane operations in New York City will help protect the lives and safety of thousands of workers, and the tens of thousands of pedestrians and vehicles passing in and around construction sites every day," Edwin Christian, business manager of the union, said in a statement following the October ruling.

The outcome of the case holds significant economic implications. For real estate developers, the newer rules struck down by Wooten could have benefited them financially by opening competition to firms from outside the city and cutting down on construction costs.

(Outside firms did not actually make inroads into the crane market here during the period between when the rules took effect—at the end of the Bloomberg administration—and when they were struck down in October.)

And for Local 14, legally shutting out non-New York City operators offers the security that future workers must train with someone already on a construction site here. Although there are a number of former Local 14 operators that offer apprenticeships outside the union, most e current members. That scenario gives Local 14 strong leverage when negotiating prices for its members' services.

Wooten's decision had little to do with safety. He struck down the city's rule changes based on a set of contradictory statements the Department of Buildings made in 2009. It opposed a proposal from the federal Occupational Safety and Health Administration that would have required a national test and allowed operators from outside the city—the same changes it later made itself.

"The quality of [the city's] advocacy three years ago is now the largest obstacle to their current position," Wooten wrote in his decision. He noted that the city is allowed to change its opinion, but the problem is that it never explained why.

It is unclear how the city will proceed. The Law Department did not acknowledge the appeal.

"We believe the DOB acted in the best interest of the public. We are determining next steps," a spokesman said in a statement.

Meanwhile, a bill in the City Council that was introduced to do an end-run around the court case altogether has been sitting in the Committee on Housing and Buildings for years. The legislation would have codified the rules favorably to Local 14.

"I don't want to trust the safety of our people to a national exam when we need to make sure [operators] are prepared to do the work and have the experience here," said City Councilman Benjamin Kallos, the sponsor of the proposed legislation.

The bill has a veto-proof 34 co-sponsors. But with the city's Law Department on the opposite side, the mayor would not be likely to ever sign it.

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