



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

Web: nyc.gov/html/law/home.html

For Immediate Release

FLORIDA BANKRUPTCY COURT ORDERS CELOTEX ASBESTOS TRUST TO PAY NEW YORK CITY FOR ASBESTOS CLAIMS

TOTAL DOLLAR FIGURE COULD REACH OVER \$40 MILLION FOR CITY

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, kahlers@law.nyc.gov

New York, July 21 2003 – A federal bankruptcy judge has ordered the Celotex Asbestos Settlement Trust to pay New York City for over 400 claims it filed because asbestos products had damaged City schools and other buildings. New York City, which is expected to receive over \$40 million as a result of the ruling, is the single-largest claimant in the bankruptcy proceedings, which began in 1990 when the Celotex Corp. filed for bankruptcy protection because of claims arising from its manufacture and sale of asbestos fiber and building products.

New York City filed more than 740 claims with the Celotex Trust. The City previously received more than \$9 million in payments for 73 claims. Over 400 additional claims were also allowed by the Property Damage Claims Administrator, the officer created by the Celotex bankruptcy to adjudicate property damage claims. The Celotex trustees, however, refused to pay these claims, arguing that they were empowered to review these allowances and withhold payment on claims they thought were wrongly decided. The Court's ruling overturned that decision.

"This is another example of the city's Affirmative Litigation Division identifying wrongdoers and successfully seeking compensation from them," according to Corporation Counsel Michael A. Cardozo, whose office litigated the case.

In September 2000, the Affirmative Litigation Division of the New York City Law Department began filing papers in the U.S. Bankruptcy Court in Tampa, Fla., challenging the trustees' refusal to pay the allowed claims. Following two years of litigation and the submission of extensive briefs, Chief Bankruptcy Judge Paul M. Glenn issued a 39-page ruling upholding the City on each of its positions.

The Judge found that the Celotex Bankruptcy Plan assigned the adjudication of claims to the Property Damage Claims Administrator. Judge Glenn held that the trustees could not withhold payment on claim allowances absent a finding that the Plan rules were not followed or that there was an abuse of discretion. Judge Glenn's order directs the Trust to pay over 400 claims. Total payments to be received should exceed \$40 million.

The Law Department's efforts to recover monies for the City to pay part of the large amounts the City has spent – and continues to spend – to abate asbestos in its schools and other buildings goes back to 1985, when it commenced litigation in New York Supreme Court. Recoveries to date have exceeded \$77 million. New York City was also the single-largest property damage claimant in the Manville and National Gypsum bankruptcies.

The case was litigated on behalf of the Affirmative Litigation Division of the Corporation Counsel's Office

by Senior Counsels Alan H. Kleinman and Morton J. Marshack. "This case vindicates the position that City has taken for almost three years in this litigation that the City's claims are valid and deserve to be paid," Kleinman noted.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 100,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

###