



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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For Immediate Release

**FEDERAL APPEALS COURT UPHOLDS JURY VERDICT
THAT DEMOLITION OF THE “THUNDERBOLT,”
A DILAPIDATED CONEY ISLAND ROLLER COASTER,
CAUSED NO ECONOMIC HARM**

DEMOLITION OF LONG-DERELICT THUNDERBOLT DID NOT VIOLATE OWNER’S CONSTITUTIONAL RIGHTS

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

New York, Dec. 7, 2005 – The Second Circuit Court of Appeals has upheld the jury verdict and lower court judge’s holdings in a case involving the Thunderbolt, a Coney Island roller coaster having not operated since 1982 and having not been maintained at all since that time. The court found that the Thunderbolt had deteriorated so much that it lacked any economic value when the City ordered its demolition in November 2000.

The Thunderbolt’s owner sued the City in federal court, claiming that the demolition violated the owner’s constitutional rights, and involved an unjustified trespass on private property. After dismissing several of the plaintiff’s constitutional claims, the federal District Court held two trials – one to determine liability and one to determine damages. Although the first jury found that the demolition of the Thunderbolt involved a trespass, the second jury – after listening to the testimony of several roller coaster and business valuation experts – determined that owner had suffered zero damages. In effect, the jury found that the dilapidated Thunderbolt was worth nothing when it was demolished.

Affirming the District Court, the United States Court of Appeals for the Second Circuit rejected the plaintiff’s arguments that the Thunderbolt had grown in value to over \$3 million at the time of demolition, that the District Court had made incorrect rulings on the admissibility of expert testimony, and that the District Court had instructed the damages jury improperly.

City lawyer Scott Shorr called the Second Circuit’s decision “another vindication of the City’s position that demolishing the Thunderbolt, whose prolonged deterioration posed a risk to public safety, caused the owner no harm.”

Shorr, a senior counsel in the Law Department’s Appeals Division, handled the appeal. The lower court trial attorneys were Senior Counsels Dana Biberman and Kerri Devine of the Administrative Law Division.

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