



This email has been sent from VerdictSearch.com.

..... case#190337 begins here

Premises Liability

Co-op's manager claimed no liability for deadly robbery

Verdict: Defense

Case Type: Inadequate or Negligent Security, Premises Liability - Negligent Repair and/or Maintenance, Premises Liability - Apartment Building, Premises Liability - Tenant's Injury, Wrongful Death

Case: Valry Crewe-Hacker as Administratrix of the Estate of Osmond Hacker, Deceased and Valry Crewe-Hacker, Individually v. NYCHA The City of New York, 1711 Davidson Avenue Housing Development Fund Corp., and James Gay, No. 21088/05

Venue: Bronx Supreme, NY

Judge: Geoffrey D. Wright

Date: 10-08-2010

PLAINTIFF(S)

Attorney:

- Brace E. Kern; Burns & Harris; New York, NY, for Valery Crewe-Hacker, Estate of Osmond Hacker

Expert:

- None

DEFENDANT(S)

Attorney:

- None reported; null, null, for City of New York, New York City Housing Authority
- Roger V. Archibald; Brooklyn, NY, for James Gay, 1711 Davidson Avenue Housing Development Fund Corp.

Expert:

- None

Insurer:

- Tower Group Cos. for 1711 Davidson Avenue Housing Development Fund and Gay (disclaimed coverage)

Facts:

During the evening of July 23, 2004, plaintiff Valery Crewe-Hacker, 57, and her husband, plaintiff's decedent Osmond Hacker, 47, were shot by robbers. The incident occurred in their residence: a cooperative apartment building that was located at 1711 Davidson Ave., in the Morris Heights section of the Bronx. Crewe-Hacker sustained injuries of an arm and her back. Her husband sustained fatal injuries.

Crewe-Hacker, acting individually and as the administrator of her husband's estate, sued the building's operator, 1711 Davidson Avenue Housing Development Fund Corp.; the cooperative board's president and managing agent, James Gay; the building's prior owner, the city of New York; and the building's prior operator, the New York City Housing Authority. The plaintiffs alleged that the defendants negligently failed to provide adequate security for the building's residents.

Plaintiffs' counsel ultimately discontinued the claims against the city of New York and the New York City Housing Authority. The matter proceeded to a trial against the remaining defendants.

Crewe-Hacker claimed that the building's entryway was supposed to be inaccessible to anyone who did not possess a key, but that a chronically defective lock allowed nonresidents to enter. Her brother, who was in her apartment but hiding when the robbery occurred, claimed that the door's lock was not functioning during the evening of the robbery. However, other tenants contended that they could not recall whether the lock was working at the time of the robbery.

Crewe-Hacker also claimed that the building's manager had planned to install security cameras around the building's entrance, but that the plan was never enacted. She further claimed that the building's manager employed a security guard, but that the guard was not present when the robbers entered the building.

Defense counsel acknowledged that the entryway door's lock had broken several times, but he contended that it was working during the evening of the robbery. Gay agreed.

Defense counsel also contended that the planned installation of security cameras was a project that was to be funded by the city and commenced in January 2004, but that the city had not found a suitable contractor to perform the work. However, he also contended that Crewe-Hacker and her husband were local restaurateurs who flaunted their wealth in a low-income neighborhood, and he suggested that they were targeted because of their wealth. He produced a newspaper article in which the couple's daughter was quoted as acknowledging that the robbers knew that "we don't look like everyone else" and that "we had money." He argued that

security cameras would not have thwarted robbers who were intent on victimizing the couple. Defense counsel further contended that the building's security guard was present during the evening of the robbery and likely performing his hourly vertical check of the premises when the robbers gained access to the building. Defense counsel also suggested that the robbers may have had a relationship with Crewe-Hacker's brother. He noted that Crewe-Hacker had stated that the robbers arrived some five minutes after her brother had arrived to visit her, and her brother acknowledged that he knew one of the robbers and had seen him in front of the building during the evening that preceded the robbery.

Injury:

Osmond Hacker sustained fatal gunshot wounds of his chest. He died immediately. Hacker, 47, was survived by his wife and an 18-year-old daughter. His estate sought recovery of a total of \$4 million in wrongful-death damages that included damages for the estate's loss of earnings. Crewe-Hacker sustained gunshot wounds of an arm and her back. She had to undergo surgical removal of the bullet that struck her back. The other bullet exited her body. Crewe-Hacker claimed that she also suffered severe residual emotional distress and anxiety. She underwent about 12 months of counseling, but she contended that she remains traumatized. She sought recovery of damages for her past and future pain, suffering and emotional distress. She also sought recovery of damages for her husband's loss of services.

Verdict Information The jury rendered a defense verdict. It found that the defendants were negligent in their maintenance of the building's entryway door, but that their negligence was not a proximate cause of the plaintiffs' injuries. Defense counsel reported that some jurors indicated that they suspected that Crewe-Hacker's brother may have played a role in the commission of the robbery.

Post-Trial: Judge Geoffrey Wright denied plaintiffs' counsel's motion to set aside the verdict.

Editor's Comments This report is based on information that was provided by plaintiffs' counsel and counsel of 1711 Davidson Avenue Housing Development Fund and Gay. The remaining defendants' counsel was not asked to contribute.