

THE REAL DEAL

Landlord prevails in NYC court's first Sandy-related commercial lease decision

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By Hiten Samtani

A New York City judge ruled Monday that the owner of 100 Maiden Lane is not liable for its tenant's loss of electricity following Hurricane Sandy, in what is believed to be the city's first decision on a commercial lease case related to storm losses.



Attorney Adam Leitman Bailey, 100 Maiden Lane and attorney Steven Kirkpatrick

The tenant, a healthy restaurant chain called Just Salad, was not entitled to a rent abatement under the terms of its lease agreement with landlord Maiden Lane Properties, the Civil Court of the City of New York judge ruled.

Maiden Line filed suit in late February, seeking unpaid rent and fees from Just Salad. The restaurant had argued that it was not required to pay rent and additional fees for the months that it had to use a generator at its own expense.

But Judge Jennifer Schecter said in the decision that, "although Superstorm Sandy undoubtedly created hardship for Just Salad, in their lease, the parties placed the risk of this type of loss on the tenant."

The significance of this decision "is that because it's a reputable judge and a well-written and reasoned opinion, we believe it's going to be followed in the future," said the landlord's attorney, **Adam Leitman Bailey**.

Indeed, Maiden Lane Properties and Just Salad were operating under a Real Estate Board of New York lease — the most widely used commercial lease, **Leitman Bailey** said.

"The courts will stand by what the leases say, as they did in this case," he said.

The judge ordered Just Salad to pay the landlord almost \$47,850 for outstanding rent and unpaid fees. Just Salad will also have to cover its opponent's attorneys' fees.

Steven Kirkpatrick, Just Salad's attorney, was not immediately available for comment, nor were representatives from Just Salad.

The 24-story, 290,116-square-foot Art Deco building is located at the corner of Maiden Lane and Pearl Street. It has 340 residential rental units and six commercial units, and was last sold for \$57 million in 2004, according to PropertyShark.

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