

What gravity can cost New York property owners

Understand risks as a property owner related to New York Labor Law Sections 240 and 241.

\$1.5 billion: Estimated amount the private sector incurs from Labor Laws 240 and 241¹

500 percent: The increase in the number of cases from Labor Laws 240 and 241, even though the rate of injury has decreased²



Property owners in New York who hire contractors for maintenance, renovations or construction may not realize they could be vulnerable to lawsuits under New York Labor Law Sections 240 and 241. These laws were enacted to protect workers from “height-related accidents,” which include both workers falling and objects falling on workers. Of course, brick and brownstone property owners should always seek qualified legal counsel with any questions regarding these laws.*

Why you need to understand these laws:

- They allow an injured worker to sue other “responsible parties,” such as property owners, in addition to seeking workers’ compensation from the employer.
- The courts have broadened their definition of a gravity-related fall, which has led to large jury awards and settlement values.
- Owners or management companies of a residential, commercial or industrial property are viewed as having the ability to control work, whether or not they have a representative on the work site.

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Labor Law 240: “Scaffold Law”

The “Scaffold Law” (New York Labor Law Section 240) imposes “absolute liability” for elevation-related injuries on contractors and property owners, meaning common law negligence standards don’t apply, so property owners could be held liable under these scenarios:

- Gravity-related injuries from falling from an elevated height
- A falling object that strikes an employee
- An employee who becomes injured while restraining a falling object

Examples of objects involved in gravity-related injuries:

- Ladders
- Scaffolds
- Pulleys
- Hoists
- Platforms
- Stays
- Slings
- Blocks
- Ropes

How the law has been interpreted in the courts:

- Elevated heights as low as 12 inches have been involved.³
- If a safety device exists that could have prevented the fall, property owners and contractors may be liable.⁴
- Work being performed can include erecting, demolishing, repairing, altering, cleaning, pointing or painting of a building.

Labor Law 241: Excavation, Demolition and Safety Equipment Law

New York Labor Law Section 240 governs how a site is managed, constructed, equipped, arranged and guarded for the overall protection of workers.

- “Vicarious liability” for the property owner or management company exists under Section 241(6), so evidence of an injured employee’s own negligence is admissible and may influence judgement.
- In some cases, successful suits under 241 rely upon other New York State regulations to establish the safety standards to be followed. For example, in the case of an injury involving a ladder, the injured worker must show there was a specific violation of the New York State Industrial Code.



Examples of when property owners are more or less likely to be vulnerable to lawsuits under these laws:

Note: "Less likely" only means that the plaintiff has a more difficult burden of proof. It's possible you could be found liable in any of these types of cases.

Less
likely

A worker is injured when changing a lightbulb.
Why? May be considered routine maintenance.

You hire someone to remove signs from your building and he/she falls in the process.
Why? The courts typically interpret sign attachment and removal as routine maintenance.

Worker drops a hammer on another worker and injures him/her.
Why? Law only applies to materials that require securing.

Your tenant hires a contractor to paint the ceiling in the tenant's unit and the contractor falls from a scaffold.
Why? As property owner, you may still be sued even though it was your tenant who hired the contractor.

A worker falls down an open elevator shaft that was not properly closed off during renovation.
Why? Openings must be properly enclosed

More
likely

**For more information on New York Labor Laws Section 240 and 241,
consult your attorney.**

1. Hattery, M, Geddes, R, and Kay, M. "The Costs of Labor Law 240 on New York's Economy and Public Infrastructure." Rockefeller Institute of Government. 2013.
2. Ibid.
3. Brown v 44th Street Development, LLC, 2016 NY Slip Op 02527. Decided on March 31, 2016 Appellate Division, First Department.
4. Fabrizi v. 1095 Ave. of the Americas, LLC. New York Court of Appeals. February 20, 2014.

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A1-112010844-A (04/18) 112010844

