

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D15176  
C/cb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - February 6, 2007

HOWARD MILLER, J.P.  
ROBERT W. SCHMIDT  
DAVID S. RITTER  
DANIEL D. ANGIOLILLO, JJ.

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2006-06542

DECISION & ORDER

Walter Tilford, plaintiff-respondent, v Sweet Home  
Real Property Trust, defendant-respondent,  
Cornerstone Construction Corp., appellant.

(Index No. 761/04)

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Fabiani Cohen & Hall, LLP, New York, N.Y. (Lisa A. Sokoloff of counsel), for  
appellant.

Bank, Sheer, Seymour & Hashmall, White Plains, N.Y. (Michael S. Bank of counsel),  
for plaintiff-respondent.

In an action to recover damages for personal injuries, the defendant Cornerstone  
Construction Corp. appeals from an order of the Supreme Court, Putnam County (O'Rourke, J.),  
dated June 14, 2006, which denied its motion for summary judgment dismissing the complaint and  
all cross claims insofar as asserted against it.

ORDERED that the order is affirmed, with costs to the plaintiff-respondent.

A general contractor that has control of a work site during the progress of a  
construction or renovation project may properly be held liable based on its having failed to correct  
a dangerous condition of which it had actual or constructive notice (*see Keating v Nanuet Bd. of Ed.*,  
\_\_\_\_\_AD3d\_\_\_\_\_ [2d Dept, May 8, 2007]; *Kerins v Vassar College*, 15 AD3d 624; *Blysm*  
*v County of Saratoga*, 296 AD2d 637, 639). Here, there is at the very least an issue of fact as to  
whether the appellant, while labeled a "construction manager," might be considered the equivalent  
of a general contractor for the purposes of applying this general rule (*see generally Walls v Turner*

May 22, 2007

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*Constr. Co.*, 4 NY3d 861; *Natoli v City of New York*, 32 AD3d 507; *Nienajadlo v Informart N.Y., LLC*, 19 AD3d 384; *cf. Linkowski v City of New York* 33 AD3d 971).

MILLER, J.P., SCHMIDT, RITTER and ANGIOLILLO, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court