

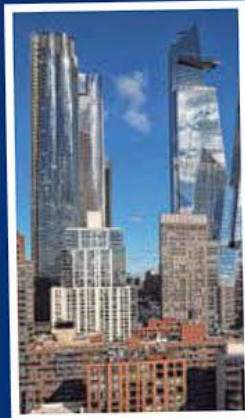
DAILY NEWS

NEW YORK'S HOMETOWN NEWSPAPER



Tall, and not very good looking

BLAZ NO FAN OF HUGE SKYSCRAPERS PAGE 2



JESSE WARD FOR DAILY NEWS; AP



CITY'S SICK DENIAL



Retired Firefighter Joe Daly has suffered three kinds of cancer.

PAGES 4-5

Fights full pay for ailing Bravest despite work at WTC, court order

TODD MARSHALL/DAILY NEWS

DAILY NEWS

DAILY NEWS NYDailyNews.com



BY THOMAS TRACY
NEW YORK DAILY NEWS

The city is balking at a court order to provide a retired firefighter wasting away from a 9/11-related cancer with a full disability pension, believing the former smoke-eater's lethal illness is linked to excessive drinking, not his time at Ground Zero, the Daily News has learned.

In 2009, just five years after his retirement, Joe Daly was a burly, bright-eyed 200-pound Long Island retiree proudly sporting a white horseshoe mustache — a trademark he's had since his days at Engine 218 in Bushwick, Brooklyn.

A decade later, at 138 pounds, he's a wisp of his

former self as he prepares for another round of chemotherapy to beat back the cancer that's already ravaged his bladder, liver and colon.

"I'm doing pretty s---y, if you want to know. I'm in a lot of pain, but I get used to it," Daly, 68, told the Daily News; a hint of frailty breaking through his tough-guy exterior. "I've had bladder cancer, liver cancer and a liver transplant. Now I have to go get chemo for colon cancer, but (the doctors) are not sure if I can take it."

Daly's cancer has been inextricably linked to his time breathing in the toxins at Ground Zero following the terror attacks, and he's already received hundreds

of thousands of dollars from the federal 9/11 Victim Compensation Fund to pay for doctor visits and medications, family members said.

He's also been diagnosed with depression stemming from the horrors he witnessed on that day and while working on The Pile.

Yet the city Fire Pension Fund fought a request to provide the 22-year FDNY veteran with a full disability pension, claiming that his cancers don't stem from Ground Zero, but from chronic drinking, even though Daly was never considered an alcoholic.

In court papers shared with The News, the city said that Daly's liver cancer was "due to (accumulation

Firefighter Joe Daly (far right and with Firefighter son Thomas) suffered from cancers stemming from his work at Ground Zero. Now, city is balking at giving him a full disability pension.



CITY DENIES PAY TO AILING HERO

Says drinking, not WTC dust, led to cancer

of fluid in the abdomen) and abdominal distention, which were the result of alcoholic liver disease" and that the firefighter had suffered cirrhosis of the liver in the past.

Daly sued to get a full disability pension, which would add about \$1,000 to his monthly retirement check. The money would go a long way toward paying the mounting bills he's accumulated during his cancer fight, he said.

On Sept. 3, Supreme Court Justice Katherine Levine ordered the city to give Daly a full, tax-free disability pension, claiming that the FDNY Medical Board's denial "lacked a rational basis and was arbitrary and capricious be-

cause (they) undiscerningly accepted the Medical Board's recommendation, which was based on cherry-picked evidence."

But the city has yet to move forward with the order as it considers an appeal, Daly's family and attorney said.

City officials have a month to determine if they will appeal Judge Levine's decision.

"Firefighter Daly has been diagnosed with three different types of cancer over the last 10 years," lawyer Jeffrey Goldberg said. "As an FDNY first responder, the city should have automatically granted his disability benefits years ago. Given the fact a judge has now overruled the Fire

Pension Fund's arbitrary denial, his extremely serious medical condition demands that he be granted WTC disability benefits immediately."

A city source with knowledge of the case said they're sympathetic to Daly's plight, but feel that the city Medical Board's evaluation was accurate.

The FDNY deferred all inquiries about Daly's pension fight to the city Law Department, which is "re-viewing the court's ruling."

"We defended the expert medical board's decision as legally correct," a Law Department spokesman said.

"I don't know what the hell they are knocking me for," Daly said about his ongoing pension fight.

His wife Dana was not so tactful.

When they went to the FDNY Medical Board to review his case, one of the board members fell asleep at his desk, she remembered. She slapped the table to keep everyone awake.

"It's a sin what they've put him through," said the proud matriarch of a family of civil servants. Beside her husband, their son Thomas Daly is also a firefighter. Their daughter Kim is an NYPD detective.

"These people on the board did not go down (to Ground Zero). They were not there and didn't see the horrors that these guys went through, so they have no compassion."

"We're not asking for any-

thing we don't deserve," she said, blasting allegations that her husband was a heavy drinker.

Daly enjoyed a few beers while off duty, but he never had a problem, nor was he ever caught drinking on the job or unable to go to work because he was drunk or hungover, she said. He even worked a second job at a lumber yard, where he drove a truck, she said.

"If he had a problem, they would have never let him drive the truck," she said. "Did he drink? Yes, just like every Tom, Dick and Harry did."

"This wasn't because of drinking," she said. "How many more cancers does my husband have to get before they realize that?"

TOP IMAGE: NEW YORK DAILY NEWS