

06/05/2019 - By Mark Azman and Olivia Weber

Minnesota Court of Appeals Rejects Trespasser Exception and Affirms Application of Recreational Immunity to Protect School District From Liability for Slip and Fall on Community Center Sidewalk.

O'Meara, Leer, Wagner, & Kohl's attorney Mark Azman was recently successful at the Minnesota Court of Appeals defending a negligence claim against the Edina School District (ISD 273). The District owns and operates the Edina Community Center (ECC). The plaintiff appealed a summary judgment ruling arising from a slip and fall on the sidewalk at the ECC.

Generally, school districts are subject to liability for their torts, but the legislature has created exceptions to this rule. Municipal organizations (including school districts) are granted immunity from certain tort claims, two of which are applicable in this case. The first is any claim based on the maintenance of any property that is to be used for recreational purposes. The second is for any claim arising from the use of school property or school facility that's used for public recreational activity. Both of these immunities still afford a potential plaintiff the protection that a trespasser would have against a private person. These protections cover any man made condition that is likely to cause serious harm, and is sufficiently hidden that the landowner knew about and didn't do anything to mitigate the potential issue.

The Court of Appeals held there was no evidence that the District created the hazardous condition, or knew or should have known that the hazardous condition existed. This decision by the Court of Appeals not only protects school districts, but any landowner who has a high probability of trespassers on their land.

If you have questions about the Minnesota Court of Appeals decision, Minnesota's application of exceptions to negligence claims against public entities, or any other liability issues, please contact Mark Azman at (952) 806-0408, mrAzman@olwklaw.com.