



TO: Mayor and Members of City Council
FROM: Lori Grigg Bluhm, City Attorney
Christopher J. Forsyth, Assistant City Attorney
DATE: June 11, 2007
SUBJECT: Norma J. Robertson v. City of Troy

Enclosed please find a copy of the *Order Granting Summary Disposition to the City of Troy* in the lawsuit filed against the City by Norma J. Robertson. On June 6, 2007, Oakland County Circuit Court Judge Rae Lee Chabot granted our motion. The order dismissing this case in its entirety was signed on June 11, 2007.

On January 10, 2006, Ms. Robertson fell on the public sidewalk in front of 392 Hickory, in the City of Troy. She filed this lawsuit against the City to recover for her injuries, which allegedly included a broken arm, mental anguish and severe embarrassment. According to the complaint, the sidewalk was “unsafe and reasonably unfit”, due to a “raised portion of the sidewalk.” She sought damages in excess of \$25,000, which is the minimum amount for circuit court jurisdiction.

At the earliest opportunity, we filed a motion for summary disposition, where we argued that the City is immune from liability in this case. Under state statute, municipalities are provided with tort immunity, since they undertake to provide services that private entities are hesitant to provide, due to risk management concerns. Examples of these services include providing and servicing roads, sidewalks and recreational facilities, and providing police protection. This immunity is not absolute, however, and may be pierced. One exception to the broad grant of governmental immunity is the “highway exception.” Under this exception a municipality may be liable if it has failed to maintain its roads (including sidewalks) in reasonable repair.

In order to prevail against the City, Ms. Robertson needed to first prove that the City failed to keep its sidewalks in reasonable repair. Under the state statute, a sidewalk is presumed to be in reasonable repair if discontinuities in the sidewalk are less than two inches. Therefore, we attached photographs in support of our motion that showed that there was only a slight height difference between two flags in the sidewalk where Ms. Robertson allegedly fell. This discontinuity was approximately one inch. Ms. Robertson was unable to refute the presumption of reasonable repair, and therefore Judge Chabot granted the City’s motion for summary disposition. In addition, Ms. Robertson had also failed to establish that the City had prior notice of any alleged defect in the sidewalk. There were no complaints about the sidewalk filed with either the Risk Manager or the Public Works Department. In the Court’s opinion, the City of Troy was entitled to governmental immunity, and therefore the case was dismissed.

If you have any questions, please let us know.

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

NORMA J. ROBERTSON

Plaintiff,

v

THE CITY OF TROY,

Defendant.

06-079454-N0



OAKLAND COUNTY JUDGE RAE LEE CHABOT
ROBERTSON, NOR V TROY CITY

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ORDER CLOSING CASE

At a session of said Court held in
the Courthouse in the City of Pontiac,
Oakland County, MI

on: JUN 11 2007

PRESENT: HONORABLE RAE LEE CHABOT

The Court has determined the following:

1. On June 6, 2007, the Court heard a motion filed by Defendant, City of Troy seeking summary disposition pursuant to MCR 2.116(C)(7) and (10);
2. After hearing argument, the Court granted Defendant’s motion for summary disposition;

3. The granting of summary disposition to Defendant resolved any and all claims filed by Plaintiff Norma J. Robertson against Defendant City of Troy.

IT IS ORDERED:

1. Plaintiff's complaint is dismissed with prejudice.
2. This order resolves the last pending claim and closes this case.

RAE LEE CHABOT

Circuit Court Judge

Stipulate as to form:



Christopher J. Forsyth (P63025)
Attorney for Defendant, City of Troy

A TRUE COPY

RUTH JOHNSON

Oakland County Clerk - Register of Deeds

By Y. Baseman
Deputy

David J. Elkin signed w/consent (CJF)

David J. Elkin (P36161)
Attorney for Plaintiff, Norma Robertson