

Torts

Poor Lighting Is an Exception to Sovereign Immunity, Supreme Court Rules

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The Pennsylvania Supreme Court has ruled that poorly lit areas of state-owned properties create an exception to sovereign immunity from lawsuits as they constitute “dangerous property conditions.”

In its April 28 ruling, the Supreme Court reversed a Commonwealth Court ruling to the contrary in *Wise v. Huntingdon County Housing Development*.

Plaintiff Sharon Wise sued the Housing Authority of the County of Huntingdon after tripping and falling on a dimly lit walkway at the Chestnut Terrace public housing complex in Mount Union, according to Chief Justice Max Baer’s opinion.

HACH claimed it was immune from suit, but Wise countered that the real estate exception to sovereign immunity applied because insufficient lighting made for dangerous conditions. The Commonwealth Court sided with HACH, reasoning that the “exterior nighttime darkness here was not an artificial condition caused by the commonwealth realty, but rather occurred naturally,” Baer said.

The chief justice noted the history of conflicting, and therefore confusing, precedent regarding the issue of lighting and sovereign immunity, and used the court’s opinion to clarify the issue. Baer said that Wise sufficiently alleged a dangerous condition existed by arguing that the light pole at issue was obscured by a tree, something under the property owner’s control.

“Here, in claiming that the insufficient outdoor lighting stems from the existence and position of the pole light and tree in

relation to the sidewalk area of HACH’s property, Wise has met this requirement. In other words, she has identified a dangerous condition that results from a “defect in the property or in its construction, maintenance, repair, or design,” Baer said. “Wise further alleges that the dangerous condition of inadequate lighting caused her injuries. Thus, HACH cannot raise immunity as a matter of law to bar her claim.”

Justice Christine Donohue concurred with the result of the opinion, but claimed it further confused the issue.

“The appellant specifically argues that this distinction, between artificially created dangerous conditions that support application of the real estate exception and naturally occurring dangerous conditions that do not, should be eliminated,” Donohue wrote in her opinion. “Although, technically, this case can be decided without abolishing the distinction, we accepted review to resolve the confusion in the application of the real estate exception to sovereign immunity. In my view, we should eliminate the unwarranted distinction and resolve the confusion instead of perpetuating it.”

Justice David Wecht also filed a concurring opinion, agreeing with the result but taking issue with the majority’s claiming it discourages the state from installing safety features in and on government properties.

“If there is no sovereign immunity whenever the injury is alleged to have been caused by dangerously designed or installed safety features of commonwealth realty, but complete immunity when no safety features are installed, why would commonwealth agencies install any safety features at all?” Wecht asked in his opinion.



Justice Max Baer.

“Presently, there is no textual basis for this court to perpetuate the judge-manufactured distinction between negligently designed or installed safety features on the one hand and no safety features at all on the other,” Wecht said.

Nathan Murawsky, who represents Wise, said in an email, “I think the Commonwealth Court using the Earth’s rotation around the sun as the cause of the ‘defective condition’ was a step too far, and really showed the nonsensical nature to which these arguments had become. Simply, it required the Supreme Court to get involved. In its opinion, the Supreme Court pointed out how the Commonwealth Court’s reasoning was inherently flawed by selectively choosing what made the ‘dangerous condition’ at issue, and not looking at the entire factual landscape.”

Anthony Vigilante represents HACH and did not respond to a request for comment.

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