

Court of Appeals, State of Michigan

ORDER

Tearria Paton v City of Detroit

Docket No. 326073

LC No. 14-009513-NO

William B. Murphy
Presiding Judge

Henry William Saad

Stephen L. Borrello
Judges

On its own motion, this Court orders the parties to be prepared to address at oral argument whether MCL 691.1402a, as amended by 2012 PA 50, and made effective March 13, 2012, governs the analysis of this case, as opposed to MCL 691.1402. MCL 691.1402a(1) provides that “[a] municipal corporation in which a sidewalk is installed adjacent to a municipal, county, or state highway shall maintain the sidewalk in reasonable repair.” The parties are also directed to address the applicability and construction of subsection (3) of MCL 691.1402a, which provides:

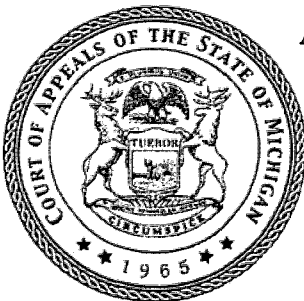
In a civil action, a municipal corporation that has a duty to maintain a sidewalk under subsection (1) is presumed to have maintained the sidewalk in reasonable repair. This presumption may only be rebutted by evidence of facts showing that a proximate cause of the injury was 1 or both of the following:

(a) A vertical discontinuity defect of 2 inches or more in the sidewalk.

(b) A dangerous condition in the sidewalk itself of a particular character other than solely a vertical discontinuity.

Particular attention is to be paid to MCL 691.1402a(3)(b) and whether this specific statutory language alters the analysis as developed under *Nawrocki v Macomb Co Rd Comm*, 463 Mich 143; 615 NW2d 702 (2000), and its progeny.

Finally, the parties are to address, in the context of a motion for summary disposition, the applicability and construction of MCL 691.1402a(4), which provides, “Whether a presumption under subsection (3) has been rebutted is a question of law for the court.”



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

June 3, 2016
Date


Chief Clerk