

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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EDNA PLUMMER and JOHN PLUMMER,

Plaintiffs-Appellants,

v

CITY OF DETROIT,

Defendant-Appellee.

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UNPUBLISHED  
October 11, 1996

No. 182040  
LC No. 94-408439-NO

Before: Corrigan, P.J., and Jansen and M. Warshawsky,\* JJ.

PER CURIAM.

Plaintiffs appeal as of right from a December 13, 1994, order of the Wayne Circuit Court granting defendant's motion for summary disposition, finding that the building at issue is not a public building to avoid governmental immunity. We affirm.

On December 21, 1993, plaintiff Edna Plummer slipped and fell on an accumulation of snow and ice on a handicapped ramp entrance to the State Fair Senior Citizens Apartment. The apartment building is owned and operated by the City of Detroit. The Plummers were not residents of the building. Edna Plummer suffered an injury to her hip as a result of the fall, and required surgery following the fall. She filed her claim alleging that defendant was negligent in failing to maintain and repair a defective condition in the building. Specifically, plaintiffs alleged that the snow and ice accumulation was unnatural because of a defective overhang that caused the snow and ice to fall onto the ramp and accumulate.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (C)(10), arguing that it was immune from liability as a governmental agency and that the building was not a public building under the public building exception to governmental immunity. The trial court granted summary disposition in defendant's favor, holding that the building was not a public building within the meaning of the statute so that defendant was entitled to governmental immunity.

The public building exception to governmental immunity is contained in MCL 691.1406; MSA 3.996(106), which provides in relevant part:

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Governmental agencies have the obligation to repair and maintain public buildings under their control when open for use by members of the public. Governmental agencies are liable for bodily injury and property damage resulting from a dangerous or defective condition of a public building if the governmental agency had actual or constructive knowledge of the defect and, for a reasonable time after acquiring knowledge, failed to remedy the condition or to take action reasonably necessary to protect against the condition.

The public building exception applies only when a building is open for use by members of the public. *Jackson v Detroit*, 449 Mich 420, 428; 537 NW2d 151 (1995); *Steele v Dep't of Corrections*, 215 Mich App 710, 714; 546 NW2d 725 (1996). The focus is on the accessibility to members of the general public, rather than on the extent to which the building might benefit the community. *Id.*

This Court has held that city-owned residential housing, such as in this case, is not a public building within the meaning of MCL 691.1406; MSA 3.996(106) as a matter of law. *White v Detroit*, 189 Mich App 526; 473 NW2d 702 (1991); see also *Griffin v Detroit*, 178 Mich App 302; 443 NW2d 406 (1989). Accordingly, the trial court did not err in holding that the public building exception to governmental immunity does not apply in this case.

Plaintiffs also contend that even if the handicapped ramp was not part of the building, the unnatural accumulation of ice and snow on the ramp was due to a defect in the building (the defective overhang that caused the unnatural buildup of snow and ice). We find the decision in *White* to control this issue. In *White*, the plaintiff injured his hip when he stepped into a hole in a brick patio located within a low-income public housing facility owned and operated by the City of Detroit. This Court held that because the building itself was not a public building within the meaning of the statute, the patio could not fall within the exception. *White, supra*, p 528. Similarly, because the building in the present case (a city-owned residential housing facility for senior citizens) is not a public building and because plaintiffs allege that the injury was due to a defect in the building itself, plaintiffs cannot avoid the application of governmental immunity.

Accordingly, the trial court did not err in granting summary disposition in favor of defendant.

Affirmed.

/s/ Maura D. Corrigan  
/s/ Kathleen Jansen  
/s/ Meyer Warshawsky