

STATE OF MICHIGAN
COURT OF APPEALS

JERZINE BARR,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 177694

Wayne Circuit Court

LC No. 93-316853-NI

HURON-CLINTON METROPOLITAN
AUTHORITY and RANGER WROBEL,

Defendants-Appellants.

Before: Marilyn Kelly, P.J., and MacKenzie and J.R. Ernst,* JJ.

MARILYN KELLY, P.J. (concurring in part and dissenting in part).

I agree with the majority that the denial of summary disposition for Ranger Wrobel should be reversed. However, I would affirm the trial court's decision as to defendant Huron-Clinton Metropolitan Authority.

This case is similar on its facts to *Singerman v Municipal Service Bureau, Inc*, 211 Mich App 678; 536 NW2d 547 (1995), *lv gtd*. Here, given the purpose that the restroom served, only proper lighting could have remedied the alleged defective or dangerous condition and made the restroom safe for park patrons. The mere fact that a park employee could have switched on the light with a key does not bring plaintiff's claim within the "supervision" and "janitorial" line of cases. Plaintiff's claim against the HCM Authority is more closely related to a defect in a public building than to safety in public buildings.

The fact that the HCM Authority may have chosen to maintain proper lighting through the use of a key-operated switch should not, as a matter of law, preclude application of a public building exception. A safe restroom may require proper lighting, and the lighting system itself is part of the public building.

Looking solely to the allegations in the second amended complaint, I conclude that plaintiff alleged sufficient facts to avoid summary disposition based on the public building exception.

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

/s/ Marilyn Kelly