

# Court of Appeals, State of Michigan

## ORDER

Cole's Home & Land Co v City of Grand Rapids

Docket No. 278001

LC No. 02-004493-CZ

David H. Sawyer  
Presiding Judge

William B. Murphy

Joel P. Hoekstra  
Judges

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The motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the April 20, 2007, judgment of the Kent Circuit Court is VACATED and the matter is REMANDED to the trial court for proceedings consistent with this order. This Court's decision in *Cole's Home & Land Co, LLC v City of Grand Rapids*, 271 Mich App 84; 720 NW2d 324 (2006), constituted a complete reversal of the trial court's judgment and, thereby, returned the case to the same posture in which it was before the judgment was entered. 5 Am Jur 2d, Appellate Review, § 861, p 515. Accordingly, the trial court may not enter summary disposition in favor of plaintiffs on the question of liability without a hearing at which plaintiffs satisfy their burden of demonstrating liability. This order is to have immediate effect. MCR 7.215(F)(2). This Court does not retain jurisdiction.

The motion to stay proceedings is DENIED as MOOT.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL 19 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk