

Order

Michigan Supreme Court
Lansing, Michigan

May 28, 2010

Marilyn Kelly,
Chief Justice

138323(59)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

DIANE GADIGIAN,
Plaintiff-Appellee,

v

SC: 138323
COA: 279540
Wayne CC: 06-621978-NO

CITY OF TAYLOR,
Defendant-Appellant.

On order of the Court, the motion for clarification of this Court's April 16, 2010 order is considered, and it is GRANTED. The April 16, 2010 order is amended to read as follows:

By order of November 19, 2009, the application for leave to appeal the January 27, 2009 judgment of the Court of Appeals was granted. On order of the Court, leave to appeal having been granted and the briefs of the parties having been considered, we VACATE our order of November 19, 2009. Pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we AFFIRM the result reached by the Court of Appeals in light of our decision in *Robinson v City of Lansing*, 486 Mich ___ (Docket No. 138669, decided April 8, 2010), which held that the "two-inch rule" of MCL 691.1402a applies only to "county" highways. The parties to this case did not dispute that the road at issue is not a "county" highway. Therefore, in light of our decision in *Robinson*, the two-inch rule does not apply to this case. We thus VACATE the opinion of the Court of Appeals because its analysis is dictum given our determination in *Robinson* that MCL 691.1402a applies only to "county" highways. We REMAND this case to the Wayne Circuit Court for further proceedings consistent with this order and *Robinson*.

We do not retain jurisdiction.



d0525

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 28, 2010

Corbin R. Davis

Clerk