STATE OF MICHIGAN

COURT OF APPEALS

BARBARA KUJAWA, Next Friend of SHAWN KUJAWA, a Minor, Plaintiff-Appellant, v CITY OF STERLING HEIGHTS, Defendant-Appellee.	UNPUBLISHED April 26, 2002 No. 229940 Macomb Circuit Court LC No. 00-001026-NO

Before: Gage, P.J., and Griffin and G. S. Buth*, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(7). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's son was rollerblading down the driveway of the family home when he tripped over a defect in the cement on the driveway apron. Plaintiff filed this action for damages, asserting that defendant was liable under the highway exception to governmental immunity, MCL 691.1402.

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). "This Court reviews the affidavits, pleadings, and other documentary evidence submitted by the parties and, where appropriate, construes the pleadings in favor of the nonmoving party. A motion brought pursuant to MCR 2.116(C)(7) should be granted only if no factual development could provide a basis for recovery." *Cole v Ladbroke Racing Michigan, Inc*, 241 Mich App 1, 6-7; 614 NW2d 169 (2000).

Each governmental agency having jurisdiction over a highway is required to "maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel." MCL 691.1402(1). A highway is any "public highway, road, or street that is open for public travel and includes bridges, sidewalks, trailways, crosswalks, and culverts on the highway," but excludes "alleys, trees, and utility poles." MCL 691.1401(e).

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

Assuming that defendant was responsible for maintenance of the driveway apron, given that it had an easement over the land, *Morrow v Boldt*, 203 Mich App 324, 329-330; 512 NW2d 83 (1994), and thus had jurisdiction over the bottom of the driveway, the term "jurisdiction" being synonymous with "control," *Markillie v Livingston Co Bd of Co Rd Comm'rs*, 210 Mich App 16, 22; 532 NW2d 878 (1995), that does not in itself make defendant liable under the highway exception. That is because the exception applies not to any lands under the city's jurisdiction, but only to highways under its jurisdiction. Because the immunity conferred on governmental agencies is broad and the statutory exceptions are to be narrowly construed, *Nawrocki v Macomb Co Rd Comm*, 463 Mich 143, 158; 615 NW2d 702 (2000), there may be situations in which a municipality has a duty that is not legally compensable if breached. *Id*. at 157. Thus, for example, a municipality cannot be held liable for the failure to maintain a city-owned public parking lot because a parking lot does not come within the statutory definition of "highway." *Bunch v City of Monroe*, 186 Mich App 347, 349; 463 NW2d 275 (1990).

The apron of plaintiff's driveway provides access between plaintiff's land and the street but is clearly not itself a road open for public travel. *Richardson v Warren Consol Sch Dist*, 197 Mich App 697, 704-705; 496 NW2d 380 (1992). Nor can it reasonably be considered a bridge, sidewalk, trailway, crosswalk, or culvert as those terms are commonly understood. *Churchman v Rickerson*, 240 Mich App 223, 228; 611 NW2d 333 (2000). Because the driveway apron was not a highway, the trial court did not err in ruling that defendant was immune from liability.

Affirmed.

/s/ Hilda R. Gage
/s/ Richard Allen Griffin
/s/ George S. Buth