

STATE OF MICHIGAN  
COURT OF APPEALS

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EDGAR HERNANDEZ,

Plaintiff-Appellant,

v

TAYLOR COMMONS LTD PARTNERSHIP and  
C.O. MANAGEMENT SERVICES, INC.,

Defendants-Appellees,

and

BORMANS, INC., d/b/a FARMER JACK,

Defendant.

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UNPUBLISHED

June 29, 2004

No. 247576

Wayne Circuit Court

LC No. 02-205880-NO

Before: Murphy, P.J., and Jansen and Cooper, JJ.

COOPER, J. (*concurring*).

Although I must concur in the result of this case, as we are duty bound to follow *Lugo v Ameritech Corp.*,<sup>1</sup> I write separately to urge the Supreme Court to note the logical consequences of that decision. Under *Lugo*, the more treacherous the situation (as in this case, the parking lot), the more open and obvious the defect, the less likelihood that liability will be found. Short of a thirty-foot pit, property owners are free to continue to maintain these defects to the detriment of the public. The result in this particular case is that defendant acknowledges that there were numerous complaints about the condition of the parking lot and the potential for injury. For public policy purposes, we ought to avoid a situation where it is cheaper for business owners to defend lawsuits than to repair defective conditions on their land.

/s/ Jessica R. Cooper

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<sup>1</sup> *Lugo v Ameritech Corp.*, 464 Mich 512; 629 NW2d 384 (2001)