

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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WILLIAM A. S. PADDOCK, II,  
Plaintiff-Appellee,

UNPUBLISHED  
September 21, 2004

v

DAN DAVID, HENRY HERNANDEZ, and  
WILLIAM TOMLINSON,

No. 247432  
Ingham Circuit Court  
LC No. 01-094274-NZ

Defendants,

and

CITY OF LANSING,

Defendant-Appellant.

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Before: Borrello, P.J., and Murray and Fort Hood, JJ.

PER CURIAM.

Defendant city of Lansing appeals as of right the trial court's order denying its motion for summary disposition of claims filed by plaintiff for trespass and abuse of process/false arrest. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The city's Office of Code Compliance entered onto plaintiff's property to determine whether he was violating its housing code, issued correction notices, and subsequently, under the direction of its employees, defendants David and Hernandez, and with the assistance of defendant Tomlinson, a rubbish hauler, removed items from the property. The city obtained a warrant for plaintiff's arrest for loud and boisterous conduct, and arrested him five months later.

Plaintiff filed suit alleging, inter alia, trespass against all defendants and abuse of process/false arrest against the city. The trial court granted summary disposition in favor of the city pursuant to MCR 2.116(C)(7) on various claims, but denied summary disposition of

plaintiff's claims of trespass and abuse of process/false arrest on the ground that those counts alleged intentional torts.<sup>1</sup>

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

A governmental agency is immune from tort liability while engaging in a governmental function, unless an exception applies. MCL 691.1407. A "governmental function" is an activity "expressly or impliedly mandated or authorized by constitution, statute, local charter or ordinance, or other law." MCL 691.1401(f); *Coleman v Kootsillas*, 456 Mich 615, 619; 575 NW2d 527 (1998). This definition should be applied broadly. *Maskery v Univ of Michigan Bd of Regents*, 468 Mich 609, 614; 664 NW2d 165 (2003). There is no intentional tort exception to governmental immunity where the tort was committed within the scope of a governmental function. *Smith v Dep't of Pub Health*, 428 Mich 540, 544; 410 NW2d 749 (1987).

We reverse the trial court's decision denying the city's motion for summary disposition of plaintiff's claims of trespass and abuse of process/false arrest. A home rule city such as the city of Lansing has the authority to enact ordinances to protect the health, safety, and welfare of its residents. Const 1963, art 7, § 22; *Adams Outdoor Advertising, Inc v Holland*, 234 Mich App 681, 689; 600 NW2d 339 (1999). The City's operation of a housing inspection program and enforcement of its housing code constituted a governmental function, MCL 691.1401(f); *Coleman, supra*, and therefore plaintiff's intentional tort claims were barred by statutory governmental immunity, *Smith, supra*.

Plaintiff's claims of trespass and abuse of process/false arrest allege intentional torts. Whether David and Hernandez could be held liable for trespass need not be resolved in this appeal. A city cannot be held vicariously liable for the intentional torts of its employees. *Payton v Detroit*, 211 Mich App 375, 393; 536 NW2d 233 (1995). The city was entitled to summary disposition of plaintiff's claims. MCL 691.1401(f); *Coleman, supra*.

Reversed.

/s/ Stephen L. Borrello  
/s/ Christopher M. Murray  
/s/ Karen M. Fort Hood

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<sup>1</sup> The trial court's order did not dispose of all claims in the case; nevertheless, it is considered a final order from which the city may claim an appeal because it denies the protection of governmental immunity to a governmental agency. MCR 7.202(7)(a)(v).