STATE OF MICHIGAN

COURT OF APPEALS

BARBARA DRAZIN,

Plaintiff-Appellee,

v

CITY OF SOUTHFIELD,

Defendant-Appellant.

UNPUBLISHED
June 16, 2000

No. 209989
Oakland Circuit Court
LC No. 96-518879-NO

Before: Gribbs, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

In this interlocutory appeal, defendant appeals by leave granted the trial court's denial of its motions for summary disposition and reconsideration. This case involves plaintiff's slip and fall on an elevated walkway that passes over a roadway and connects on the other side to the roof of a parking structure, which serves as a plaza to several public buildings. At issue is whether the parking structure with its plaza-roof, and the connected walkway, are a public building within the exception to governmental immunity. We conclude that they are not and reverse the trial court's denial of defendant's motion for summary disposition.

First, the trial court presumed that a parking structure, designed to shelter vehicles rather than people, is a public building. It is not at all clear that this is so. Compare *Ali v Detroit*, 218 Mich App 581, 584-585; 554 NW2d 384 (1996). As a general rule, parking lots do not fall within the public building exception to governmental immunity. *Puroll v Madison Heights*, 187 Mich App 672; 468 NW2d 52 (1991). We need not, however, decide this question because we reject the trial court's conclusion that the walkway, attached on one side to the roof of the parking structure, should be considered a fixture of the parking structure.

Exceptions to governmental immunity, including the public building exception, are to be narrowly construed. *Horace v City of Pontiac*, 456 Mich 744, 749; 575 NW2d 762 (1998). Application of the doctrine is limited to dangers actually presented by the building itself. *Wade v Dep't of Corrections*, 439 Mich 158, 167; 483 NW2d 26 (1992). The question whether an object is a fixture, and thus considered part of the building, is determined by applying three factors:

> (1) annexation to the realty, whether actual or constructive; (2) adaptation or application to the use or purpose to which that part of the realty to which it is connected is appropriated; and (3) intention to make the article a permanent accession to the freehold. [*Velmar v Baraga Area Schools*,430 Mich 385, 394; 424 NW2d 770 (1988), quoting *Peninsular Stove Co v Young*, 247 Mich 580, 582; 226 NW 225 (1929).]

A "condition" will not necessarily be viewed as a part of a building merely because it is "intimately associated or connected with the building itself." *Horace*, *supra*. at 755. Further, conditions that exist in areas adjacent to an entrance or exit, which are nevertheless not part of the public building, do not come within the public building exception.[1] *Id.* at 758.

Here, the elevated walkway is attached at one end to a plaza that was built over the parking structure. The walkway does not provide entry to the parking structure itself, but to the plaza area adjacent to a municipal office building and library. There is, in short, nothing about the walkway to suggest that its connection to the parking structure is more than incidental. It is not an adaptation to the parking structure itself. We conclude, particularly in light of the narrow construction required in this matter, that the walkway is not a fixture of the parking structure and that summary disposition was improperly denied.

Reversed.

/s/ Roman S. Gribbs
/s/ Joel P. Hoekstra
/s/ Jane E. Markey

[1] Indeed, the Court in *Horace* strongly implies that "an attached external ramp," which this walkway most closely resembles, would not survive the Court's ruling in *Horace*. See *supra* at 756 n9.