

STATE OF MICHIGAN
COURT OF APPEALS

NORA DOWNS,

Plaintiff-Appellee,

v

CITY OF SOUTHFIELD,

Defendant-Appellant,

and

THE GANNETT COMPANY, THE DETROIT
NEWS, INC., KNIGHT-RIDDER, INC., and
DETROIT FREE PRESS, INC.,

Defendants.

UNPUBLISHED

September 28, 2001

No. 223518

Oakland Circuit Court

LC No. 98-010276-NZ

Before: Cavanagh, P.J., and Markey and Cooper, JJ.

MEMORANDUM.

Defendant, City of Southfield, appeals from the circuit court's order denying its motion for summary disposition based on governmental immunity. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

MCL 691.1407 grants broad immunity to governmental agencies such as defendant. Exceptions to the broad grant of governmental immunity must be narrowly construed. *Collins v Ferndale*, 234 Mich App 625, 628; 599 NW2d 757 (1999).

The gross negligence exception set forth in MCL 691.1407(2)(c) applies to officers, employees, volunteers, and committee members working for government agencies. This exception does not state that it applies to agencies themselves. Since exceptions to governmental immunity must be narrowly construed, the circuit court erred by applying the gross negligence exception to defendant. See *Gracey v Wayne Co Clerk*, 213 Mich App 412, 420-421; 540 NW2d 710 (1995), overruled on other grounds by *American Transmissions, Inc v Attorney General*, 454 Mich 135; 560 NW2d 50 (1997).

Nor can defendant be held vicariously liable for the acts of its employees or agents since those persons were engaged in the exercise or discharge of a governmental function, i.e., dissemination of information to the press or public. Defendant has a duty to provide information upon request under the Freedom of Information Act, MCL 15.231 *et seq.* Responding to press inquiries regarding the propriety of an agency or official's actions is a proper governmental function. See *American Transmissions, Inc, supra* at 144. Regardless of whether one of defendant's agents or employees acted with gross negligence in carrying out this governmental function, it was still a governmental function entitling defendant to immunity from plaintiff's tort claims. See *Ross v Consumers Power (On Rehearing)*, 420 Mich 567, 625; 363 NW2d 641 (1984); *Payton v Detroit*, 211 Mich App 375, 393; 536 NW2d 233 (1995). In sum, plaintiff's tort claims against defendant are barred by governmental immunity; therefore, the circuit court erred in denying its motion for summary disposition of such claims.

Reversed.

/s/ Mark J. Cavanagh

/s/ Jane E. Markey

/s/ Jessica R. Cooper