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publication in the New York Reports.

No. 80 SSM 53
Linda Smalley,
Appellant,
v.
Matthew J. Bemben,
Respondent.

Submitted by Michael G. Dwyer, for appellant.
Submitted by Laurence D. Behr, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs.

Unless a statute or ordinance "clearly imposes
liability upon" an abutting landowner, only a municipality may be
held liable for the negligent failure to remove snow and ice from
a public sidewalk (Roark v Hunting, 24 NY2d 470, 475 [1969])

[emphasis added]; Jacobs v Pasquale, 281 AD2d 891, 892 [4th Dept 2001]). In 1997, the City of Buffalo amended section 413-50 (A) of its City Code to impose two duties on landowners: (1) removing snow and ice on abutting sidewalks before 9:00 a.m. and (2) making, maintaining and repairing abutting sidewalks. The plain language of section 413-50 (A) only imposes liability with respect to the second duty. While the legislative history of the 1997 amendment may also be read as indicating that the amendment was intended to impose liability on landowners for failing to remove snow and ice from city sidewalks abutting their property (see Montes v City of Buffalo, 295 AD2d 896, 897 [4th Dept 2002], lv denied 99 NY2d 504 [2002]), the terms of the Code do not clearly subject landowners to such liability.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided February 24, 2009