COURT OF APPEALS
DECISION
DATED AND RELEASED

September 28, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* § 808.10 and RULE 809.62(1), STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 94-2401

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

HELEN WALSH, a minor,
by her Guardian ad Litem,
BRUCE A. SCHULTZ,
SCOTT WALSH AND DIANE WALSH,

Plaintiffs-Appellants,

v.

CITY OF WISCONSIN DELLS,

Defendant-Respondent,

HMO OF WISCONSIN, INC.,

Involuntary-Party.

APPEAL from an order of the circuit court for Columbia County: RICHARD L. REHM, Judge. *Affirmed*.

Before Eich, C.J., Gartzke, P.J., and Dykman, J.

PER CURIAM. Helen Walsh, by her guardian ad litem, appeals from a summary judgment dismissing her personal injury claim against the City of Wisconsin Dells. In 1990, Helen was injured in a city park. The issue is whether the City is immune from liability under the Recreational Immunity Statute, § 895.52, STATS. We conclude that it is, and therefore affirm.

The facts are undisputed. Helen and a friend were visiting Wisconsin Dells and wandering in the downtown area. Helen became tired and sat down on a picnic table in a city park, where she and her friend rested and talked. A sign that identified the park tore loose from its frame and fell on her, causing serious injuries.

Under § 895.52, STATS., a city is generally immune from liability to persons who enter its property to engage in a recreational activity.[1] Section 895.52(1)(g) defines "recreational activity" as

> any outdoor activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" includes, but is not limited to hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird-watching, motorcycling, operating an all-terrain vehicle, ballooning, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sightseeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature and any other outdoor sport, game or educational activity ....

[1] Under § 895.52(4), STATS., a city, or other governmental body, remains liable if an injury occurs at an event for which the city charges an admission fee, or the injury is caused by a malicious act or omission by a city officer, employe or agent. Neither circumstance is alleged here.

This list is not exhaustive; all substantially similar activities are included within the definition. *See* ***Kruschke v. City of New Richmond***, 157 Wis.2d 167, 172, 458 N.W.2d 832, 834 (Ct. App. 1990).

Because the facts are undisputed, whether § 895.52, STATS., immunizes the City is a question of law properly decided on summary judgment. ***Heck & Paetow Claims Serv., Inc. v. Heck***, 93 Wis.2d 349, 355, 286 N.W.2d 831, 834 (1980). We decide such questions without deference to the trial court. ***Silverton Enters. v. Gen. Casualty***, 143 Wis.2d 661, 669, 422 N.W.2d 154, 157 (Ct. App. 1988).

The City is immune from liability because Helen was engaged in a recreational activity. Taking a break from window shopping and sightseeing by resting upon a picnic table and talking with a friend is an activity undertaken for the purpose of relaxation. As such, the statute directs that it be included in the category of recreational activities. Although Helen contends that her sedentary status when injured cannot be considered an "activity," we must liberally construe § 895.52, STATS., in favor of property owners. ***Linville v. City of Janesville***, 184 Wis.2d 705, 715, 516 N.W.2d 427, 430 (1994). Liberally construed, even resting is a "recreational activity."

Helen also contends that the legislature did not intend § 895.52, STATS., to "immunize a governmental entity from liability for negligently designing, constructing and maintaining an information sign. A land owner owes a duty of ordinary care if he chooses to erect an information sign on his land." However, § 895.52(2)(a), in plain terms, relieves owners of the duty to keep their property safe for recreational activities, to inspect the property, or to give warning of an unsafe condition, use or activity. "Property" includes "structures." Section 895.52(1)(f). No exceptions are provided for informational signs. If a statute's meaning is plain from its language, we apply that plain meaning and must not look further to determine legislative intent. ***Village of Shorewood v. Steinberg***, 174 Wis.2d 191, 201, 496 N.W.2d 57, 61 (1993).

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.