

Tort Liability and Governmental Immunities: Balancing Accountability and Protection

2025 LMCIT Safety and Loss Control Workshop

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DISCLAIMER

- The material being provided in this presentation is for your general information, and is not a substitute for legal advice
- Consult your attorney for advice concerning specific situations



- What is governmental immunity?/Why does it exist?
- Types of municipal immunity
- Review court decisions
- Risk management considerations



Tort Liability

What is a tort?

- From Latin term “tortum” meaning “wrong”
- A wrongful act or an infringement of a right (other than under a contract)
- Bodily injury or property damage
- Injured person asks for monetary damages



Tort Liability

Minnesota Statutes, § 466.02

- “**Subject to the limitations** of sections 466.01 to 466.15, **every municipality is subject to liability for its torts** and those of its officers, employees and agents acting within the scope of their employment or duties.”



Municipal Tort Claims Act

Minnesota Statutes, Chapter 466

- 466.01 DEFINITIONS
- 466.02 TORT LIABILITY
- 466.03 EXCEPTIONS
- 466.04 MAXIMUM LIABILITY
- 466.05 NOTICE OF CLAIM
- 466.06 LIABILITY INSURANCE
- 466.07 INDEMNIFICATION
- 466.08 COMPROMISE OF CLAIMS
- 466.09 PAYMENT OF JUDGMENTS
- 466.101 LAW ENFORCEMENT COSTS
- 466.11 RELATION TO CHARTERS AND SPECIAL LAWS
- 466.131 INDEMNIFICATION BY STATE
- 466.132 INDEMNIFICATION BY STATE
- 466.15 CIVIL DAMAGES ACT, APPLICATION

Municipal Tort Caps



Minn. Stat. § 466.04

- \$500,000 per person
- \$1,500,000 per occurrence
- State law claims (not federal law claims)

What is
immunity?

Sovereign Immunity

- English common law
 - The King can do no wrong
- Historically, sovereign immunity applied
 - Government cannot be sued without its consent
- Sovereign immunity for municipalities lost in 1962
 - *Spanel v. Mounds View School District*,
- State waived sovereign immunity in 1976
 - Minn. Laws 1976, Chapter 331



Exceptions to Liability



Why do
cities have
immunity?

Purpose of Immunity

- Protect government from excessive liability, preserves public funds
- Promotes efficient governance
- Good policy decisions
- Encourages public service
- Historical precedent



Lawsuits

- Immunity does not prevent lawsuits
- Party will move for “summary judgment”
- Judge determine if immunity applies
- If no immunity, jury (or judge) determines liability
- May argue multiple defenses





How many statutory
immunities are
there in Minnesota?

Statutory Immunities – Minn. Stat. § 466.03

- Snow and ice
- Discretionary
- Licensing of providers
- Parks and recreation
- Beach or pool equipment
- Unimproved property
- School building security
- Emergency medical dispatch
- GIS data
- Recreational use of school property
- Used public safety equipment
- Surplus equipment donations
- Tax claims
- Welfare benefits
- Some patient care

Statutory Immunity Applies to a “Municipality”

- City
- County
- Town
- Public authority
- Public corporation
- Non-profit firefighting corporation
- Special district
- School district
- Joint powers board or organization
- Public library

Snow & Ice Immunity

Immune from liability for any “claim based on **snow or ice conditions** on any highway or public sidewalk that does not about a publicly owned building or publicly owned parking lot, except when the condition is affirmatively caused by the negligent acts of the municipality.”



Snow and Ice Immunity Example

Sofiem v.
City of
St. Paul



Discretionary Immunity

Minn. Stat. § 466.03, subd. 6

- City is immune from liability for:
 - “Any claim based upon the performance or the failure to exercise or perform a **discretionary function or duty**, whether or not the discretion is abused.”



Discretionary Immunity

- Planning level or policy-making decisions protected
- Balance public policy objectives
 - Social factors
 - Economic factors
 - Financial factors
 - Political factors
- Document decision in writing



Planning-Level Decisions

- Not always clear cut
- Almost every decision involves some measure of discretion



Discretionary Acts

Kari v. City of Maplewood

- Kari was struck in a crosswalk by an emergency vehicle
- A discretionary act is one that requires “the exercise of individual judgment in carrying out the official’s duties”
- Quintessential discretionary act is a police pursuit/chase because of split-second decision-making in an emergency



Ministerial Acts

Watson v. Metro Transit

- “An official’s duty is ministerial when it is absolute, certain and imperative, involving merely execution of a duty arising from fixed and designated facts.”



Discretionary Immunity Example

Hennes v.
State of
Minnesota



Discretionary Immunity Example

Gorecki v.
Hennepin
County



Discretionary Immunity Example

Kuntz vs.
Minneapolis
Park and
Recreation
Board



Park and Recreation Immunity

Minn. Stat. § 466.03, subd. 6e

City is immune from liability for:

- “Any claim based upon the construction, operation, or maintenance of any property owned or leased by the municipality that is intended or permitted to be used as a **park**, as an **open area for recreational purposes**, or for the provision of recreational services...”



What is a Recreation Area?

- Whether property as a whole was recreational and whether the area at issue facilitated the use of recreational property
- No distinction between natural and artificially improved recreational property



Park and Recreation Immunity Exception

“Nothing...limits the liability of a municipality for conduct that would entitle a **trespasser** to damages against a private person...”



Trespasser Standard of Care

- City liable to trespassers if the condition:
 - Is created or maintained by the city;
 - Is likely to cause death or serious bodily harm; and
 - Of such a nature that the city has reason to believe trespassers will not discover it
- City fails to exercise reasonable care to warn trespassers



Park and Recreation Immunity Example

Anderson v.
Independent
School
District No.
191



Park and Recreation Immunity Example

Mertz v.
City of Eden
Prairie



Park and Recreation Immunity Example

Unzen v.
City of
Duluth



Park and Recreation Immunity Example

Lloyd v.
City of
St. Paul



Park and Recreation Immunity Example

Fritzsche v.
City of
Rochester



Common Law Official Immunity

- Protects public officials
- Discretionary duties – protected
 - Duty calls for the exercise of judgment or discretion
- Ministerial duties – not protected
 - Duty is absolute, certain and imperative, involving merely execution of a specific duty



Official Immunity Example

S.W. v.
Spring Lake
Park School
District



Qualified Immunity

- Federal law doctrine
- Applies in civil rights cases under 42 U.S.C. § 1983
- Shields government officials from liability if “their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”



Qualified Immunity Example

Vassallo v.
Majeski



Qualified Immunity Example

Lombardo v.
City of
St. Louis





Risk Management Considerations



SAFETY
FIRST



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